

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

Th7p

Appeal filed..... 10/30/98
Hearing opened..... 12/8/98
49th day (waived)..... 12/18/98
Substantial Issue found..... 5/13/99
Project denied..... 9/15/99
Denial findings adopted..... 12/9/99
Stipulated Superior Court remand..... 8/1/2000
StaffD.Carl
Staff report prepared..... 11/27/2000
Hearing date..... 12/14/2000
Hearing item number..... Th7p

APPEAL STAFF REPORT

COURT REMAND DE NOVO HEARING

Appeal number..... **A-3-SCO-98-101, Bailey/Steltenpohl Mixed Use Davenport Project**

Applicants..... Fred Bailey and Greg Steltenpohl

Appellants..... Citizens For Responsible North Coast Planning; Sierra Club; David S. Kossack

Local government Santa Cruz County

Local decision..... Approved with conditions (October 20, 1998)

Project location..... Seaward side of Highway One (opposite the Highway's inland intersections with Davenport Avenue and Center Street) in the town of Davenport along Santa Cruz County's North Coast (3500 Highway One; APN 58-121-04).

Project description Modify and expand existing 13,000 square foot building into a two-story, 23,000 square foot, 28 to 30 foot tall, mixed use development (including a restaurant, 5 overnight units, a spa, a retail shop, food processing operation and warehouse space, one caretakers unit, and one additional residential unit). Includes construction of a detached 600 square foot greenhouse, a 22-space parking lot located in lower portion of the site, a 20-space parking lot recessed 2 feet below grade on the upper bluff portion of the site, and associated landscaping. Project also includes lateral and vertical trail dedications and public access amenities (benches, stairs, pathways).

File documents Santa Cruz County Certified Local Coastal Program (LCP); Addendum to the General Plan for the Davenport Beach and Bluffs; Santa Cruz County Coastal Development Permit File 95-0685; Santa Cruz County Superior Court Case Number CV 136954.

Staff recommendation .. **Approval with Conditions**



California Coastal Commission
December 2000 Meeting in San Francisco

Staff: D.Carl Approved by:

A-3-SCO-98-101 (Bailey-Steltenpohl Remand) stfrpt DeNovo.doc

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**7. Exhibits**

- Exhibit A: Project Location and General Davenport Environs (Air Photos)
- Exhibit B: Photos of Davenport Highway One Frontage and Project Site
- Exhibit C: Santa Cruz County Adopted Findings and Conditions
- Exhibit D: Stipulated Superior Court Remand
- Exhibit E: Proposed Project Description
- Exhibit F: Proposed Project Site Plan and Elevations
- Exhibit G: LCP Section 13.10.611 (Accessory Structures)
- Exhibit H: California Department of Fish and Game letter on the project
- Exhibit I: California Department of Transportation (Caltrans) letter on the project
- Exhibit J: Correspondence Received Since Remand
- Exhibit K: Approved Project Notes

1. Project Procedural History

The project in front of the Commission was approved by the Santa Cruz County Board of Supervisors on October 20, 1998. This Board approval was separately appealed to the Coastal Commission by Citizens For Responsible North Coast Planning; the Sierra Club; and David S. Kossack. On December 8, 1998, the Coastal Commission opened the substantial issue hearing, and continued the hearing until such time as a full staff report analysis of the project would be possible. On May 13, 1999, the Commission resumed the substantial issue hearing on the project and found that the appeals raised substantial issues in terms of the project's consistency with the Santa Cruz County LCP. As a result, the Commission took jurisdiction over the coastal development permit (CDP) for the project.

The Commission subsequently held public hearings on the CDP application on July 14, 1999 and September 15, 1999. At the September hearing, the Commission expressed concerns about the overall size of the project and about the proposed parking lot spanning the upper portion of the parcel. Ultimately the Commission determined that the project would result in a major change to the character of the unique Davenport community inconsistent with LCP policies protecting this unique resource. The Commission likewise determined that the project would significantly block and alter coastal views at this site inconsistent with both LCP and Coastal Act policies protecting public view access. With the LCP requiring protection of these resources, the number of variances to LCP setback and height limits necessary to allow for the proposed expansion was also troubling to the Commission. The Commission was also concerned about the precedential aspects of converting a former agricultural packing shed on the west side of Highway 1 into a commercial use substantially more intense than what previously existed at the site. On September 15, 1999, the project was denied by an 8 to 3 vote; the Commission adopted findings in support of the denial at a December 9, 1999 hearing.

On November 2, 1999 the Applicants filed suit in Santa Cruz County Superior Court challenging the Commission's denial of the project on the grounds that the evidence in the record did not support the Commission's decision, there were procedural irregularities in the proceedings, and that the denial of the project constituted a taking of the Applicants' property (Case Number CV 136954). Before the litigation went to trial, though, the Applicants and the Commission reached a settlement agreement wherein the



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Applicants agreed to dismiss the litigation provided the Commission agreed to consider a modified proposed project; in other words, the Commission agreed to a stipulated Superior Court remand of the project. The Commission agreed to the Superior Court remand in executive (non-public hearing) session.

The stipulated court remand does not limit the Commission in any way in its review of the modified proposed project. The Commission retains its full discretion to approve, approve with conditions, or deny the proposed modified project based upon the facts of the case.

2. Staff Report Summary

The proposed project would renovate and expand a former agricultural packing shed to support a mixed-use commercial development on property spanning the ocean side of the small town of Davenport on Santa Cruz's rural north coast. Davenport, a small community of approximately 200 people surrounded for the most part by rural agricultural lands, is located roughly 10 miles upcoast of the City of Santa Cruz along the mostly undeveloped stretch of Central Coast extending between the Cities of Santa Cruz and Half Moon Bay to the south. The north Santa Cruz coast area represents the grandeur of a bygone (in many places) agrarian wilderness California and is a critical public viewshed for which the LCP dictates maximum protection. Davenport itself is a widely renowned whale watching and visitor destination that has been recognized within the LCP for its special community character – a windswept character within which the subject site plays an important role.

The Applicants propose to increase the gross square footage, height, and mass of the only existing substantive structure west of the Highway in Davenport; the expanded building would house a range of uses including a restaurant, 5 overnight units, a spa, a retail shop, food processing operation and warehouse space, one caretakers unit, and one additional residential unit. In support of the uses within the main structure, the Applicants propose a detached 600 square foot greenhouse, a 22 space parking lot in the lower portion of the site, a 20-space parking lot recessed 2 feet below grade on the undeveloped upper bluff portion of the site, and associated landscaping. In light of the significant historical public use of the site, the Applicants propose to construct and dedicate several public access amenities (benches, stairs, pathways).

The subject site is critical to the overall character of Davenport, and is critical to the ocean view enjoyed by both visitors to the town and those passing through on Highway One. While Staff is supportive of the significant visitor-serving and public access amenities that would be provided here, Staff believes that such modifications should not come at the expense of the special character of Davenport and should not come at the expense of the public viewshed. The development, as proposed, would introduce additional building mass into the viewshed, and would convert part of the undeveloped upper bluff into a 20 space parking lot and roughly 200 linear foot access road. Such changes at this critical site spanning the town's seaward frontage would forever alter Davenport's community character and would forever block or otherwise mar the windswept coastal view enjoyed by untold number of coastal visitors every day. Staff believes that, as proposed, the project is not consistent with the LCP and the Coastal Act's access and recreation policies for these and other less significant reasons.



Staff recommends that the Commission approve a modified project that: maintains the existing building's footprint and profile; eliminates the formal parking lot development on the upper blufftop; limits project parking to the lower portion of the site; requires maintenance of the screening hedges to protect the public viewshed; protects significant riparian resources to the south of the existing building; adequately filters polluted runoff; ensures that water and sewer service are available for the project; protects any potential archaeological resources that may be found during construction; and formally recognizes public access and habitat resources on the site.

Staff believe that the modified project will preserve significant public ocean vistas as well as the special character of Davenport at the same time as providing new visitor-serving facilities and enhancing existing public access uses, thereby improving the public's ability to access this special coastal location, and can thus be found consistent with the applicable LCP and Coastal Act policies.

As so conditioned, staff recommends approval.

3. Staff Recommendation on Coastal Development Permit

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve Coastal Development Permit Number A-3-SCO-98-101 pursuant to the staff recommendation.

Staff Recommendation of Approval. Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve a Coastal Development Permit. The Commission hereby approves the coastal development permit on the ground that the development as conditioned, will be in conformity with the policies of the Santa Cruz County Local Coastal Program, and is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and recreation policies of the California Coastal Act of 1976 (Coastal Act). Approval of the coastal development permit complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the development on the environment.



4. Conditions of Approval

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Revised Project Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit Revised Project Plans to the Executive Director for review and approval. The Revised Project Plans shall be substantially in conformance with the plans submitted to the Commission (titled *Davenport Commercial* by Charles J. Franks and Associates (most recent revision dated August 30, 2000; dated received in the Commission's Central Coast District Office September 20, 2000) but shall show the following changes to the project:
 - (a) **Upper Bluff.** No development shall take place on the upper bluff portion of the property northwest of the existing cypress hedge (see Exhibit K-1). The proposed parking lot, entrance from Highway One, pathways, and fencing shall not be shown on the Revised Project Plans.
 - (b) **Building Footprint.** All improvements to the main building on the site shall be made within the existing modified building footprint, except for decks. The existing modified building footprint shall consist of the existing building footprint except for that portion within 10 feet of the Highway One right-of-way (see Exhibit K-1).
 - (c) **Building Profile.** All improvements to the main building on the site shall be made within the existing building profile. The existing building profile is established by the existing elevation of the highest point of the existing roof above sea level. The Revised Project Plans shall include



elevations that show the remodeled building in relation to the existing building profile.

- (d) **Parking.** All 42 parking spaces to serve the uses in the main building shall be located within the lower portion of the property as shown on Exhibit K-1. In the event that the Revised Project Plans reduce parking requirements, less than 42 parking spaces may be supplied in the lower parking lot provided that sufficient parking is provided to meet the requirements of current Santa Cruz County Code Section 13.10.552.
- (e) **Screening Hedges.** All hedges located between the main building and Highway One shall be no taller than necessary to screen views of the main building as seen from the Highway One right-of-way. A small opening in the hedge located between the main building and the northwestern, upper bluff portion of the property may be allowed to provide access from the upper level of the main building to the upper bluff provided the size of any such opening is minimized. The Revised Project Plans shall include elevations showing the main building in relation to both hedge heights and the Highway One right-of-way at representative locations spanning the length of the property.
- (f) **Main Building Sign.** One sign located along Highway One advertising the uses within the main building shall be allowed provided the sign: shall not exceed 25 square feet in surface area (as measured for one side of the sign); shall not exceed 7 feet in height as measured from existing grade; shall not be constructed of plastic and shall not include interior illumination; shall be located as far from the Highway One travel lanes as possible and shall conform to all Caltrans requirements; and shall not obstruct the sight distance of Highway One motorists, bicyclists, or pedestrians. Any such sign shall be identified in site plan and elevation in the Revised Project Plans and shall include a description of all materials and colors to be used.
- (g) **Public Access Signs.** Public coastal access signs shall be provided at each trailhead (see Special Condition 2) nearest Highway One and along both sides of the highway to provide direction to both northbound and southbound travelers. Public coastal access signs for Highway travelers shall conform to all Caltrans standards for such signs. Public coastal access signs at each trailhead shall be low profile and shall include the standard coastal trail logo.
- (h) **Exterior Design.** The Revised Project Plans shall identify all exterior finish materials. All exterior finishes shall consist of earthen tone colors that blend with the surrounding landscape and/or corrugated metal siding replicating an agricultural building. Permittee shall submit color samples to the Executive Director for review and approval. All utilities (including but not limited to electrical power, telephone and cable television service connections, pad mounted transformers, utility meters, and electrical panels) shall be installed underground or, where underground installation is not possible, shall not be visible from any public streets or the main building parking lot entrance.
- (i) **Lighting.** All lighting for parking and pedestrian areas shall be limited to pedestrian oriented lighting not to exceed 3 feet in height. Such lighting shall be minimized to the amount necessary for safety purposes. Lighting shall be located where necessary to allow safe pedestrian use of the parking area at night. All lighting shall be downward directed and designed so it does not produce



any light or glares off-site.

- (j) **Greenhouse.** The greenhouse shall be relocated between the lower parking lot and the existing cypress hedge (see Exhibit K-1). The greenhouse shall be no larger than 600 square feet, shall be screened from Highway One views, and shall conform to all requirements of current Santa Cruz County Code Section 13.10.611 for accessory structures (see Exhibit G).

The Revised Project Plans shall be submitted with evidence of review and approval by the appropriate official(s) from: (1) Santa Cruz County; and (2) California Department of Transportation (Caltrans).

The Permittee shall undertake development in accordance with the approved Revised Project Plans. Any proposed changes to the approved Revised Project Plans, including but not limited to any changes in the uses within the main building, shall be reported to the Executive Director. No changes to the approved Revised Project Plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

2. **Public Access Offers to Dedicate.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director permanent public easements for public pedestrian access and passive recreational use to and along the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to the acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. The areas of dedication shall consist of the following:

- (a) **Beach Trail.** A corridor at least ten (10) feet wide encompassing the existing trail located southeast of the existing building extending from the northern to southern property line as shown on Exhibit K-1.
- (b) **Stairway Trail.** A corridor at least ten (10) feet wide extending from the northern to southern property lines immediately north of the cypress hedge on the northwestern side of the main building and including the stairway as shown on Exhibit K-1.
- (c) **Parking Area Trail.** A corridor at least ten (10) feet wide extending along the northwesterly boundary of the property from the northern to southern property line as shown on Exhibit K-1.
- (d) **Railroad Trail.** A corridor at least ten (10) feet wide extending along the southwesterly boundary of the property from the western to eastern property line as shown on Exhibit K-1. If the Permittee submits evidence that indicates conclusively (in the opinion of the Executive Director) that such easement would irreconcilably conflict with the Permittee's existing easement with Union Pacific Railroad, then this easement is not required.

The recorded document shall include legal descriptions of both the Permittee's entire parcel and the areas of dedication. The document shall be recorded free of prior liens and any other encumbrances



which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

- 3. Open Space and Habitat Conservation Offer to Dedicate.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an Open Space and Habitat Conservation Easement (Easement) for the purpose of open space and habitat protection and conservation. Such Easement shall cover all areas of the property southeast of the existing cypress hedge located southeast of the main building except for the public access easement areas described in Special Condition 2 above (see Exhibit K-1). The recorded document shall include legal descriptions and site plans of both the Permittee's entire parcel and the Easement area. The recorded document shall indicate that no development, as defined in Section 30106 of the Coastal Act or Section 13.10.700-D of the certified Santa Cruz County Local Coastal Program, shall occur in the Easement area except for habitat enhancement and restoration activities, vegetation removal for fire management, removal of non-native vegetation, or planting of native vegetation.

The offer to dedicate the Open Space and Habitat Conservation Easement shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

4. Habitat, Scenic, Use, and Access Protection.

- (a) **Habitat.** No development, as defined in Section 30106 of the Coastal Act or Section 13.10.700-D of the certified Santa Cruz County Local Coastal Program, shall occur in the Open Space and Habitat Conservation Easement (Special Condition 3) area except for habitat enhancement and restoration activities, vegetation removal for fire management, removal of non-native vegetation, or planting of native vegetation.
- (b) **Scenic.** All hedges located between the main building and the Highway One right-of-way shall be maintained at a height no taller than necessary to screen views of the main building as seen from the Highway One right-of-way. All plantings shall be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the approved plans throughout the life of the project.
- (c) **Use.** The uses allowed in the on-site building are limited to: (1) "Type A" overnight visitor accommodations (i.e., hotels, inns, pensions, lodging houses, "bed and breakfast" inns, motels, recreational rental housing units pursuant to current Santa Cruz County Code Section 13.10.332); (2) a restaurant/café with associated greenhouse; (3) day spa, sauna, and/or hot tub uses associated with the "Type A" overnight visitor accommodations; (4) neighborhood-scale retail sales



(pursuant to current Santa Cruz County Code Section 13.10.332); (4) a food processing and warehouse operation, appropriate to the scale and use of the main building, associated with restaurant and/or retail food establishment within the town of Davenport; (5) one office associated with the permitted restaurant/café, visitor-oriented retail, spa, or “Type A” overnight visitor accommodation uses; (6) up to two residential dwelling units with one of these units provided strictly for a building/building use caretaker unit.

(d) Access. All access amenities within the easement areas required by Special Condition 2 shall be maintained in perpetuity by the Permittee.

By acceptance of this permit, the Permittee acknowledges and agrees to 4a through 4d above.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall execute and record a deed restriction in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. for the purpose of protecting habitat and scenic resource values and public access. The Habitat, Scenic, Use and Access Protection Deed Restriction (Deed Restriction) shall affect the entire parcel (Deed Restricted Area) and shall include a legal description and site plan of: the Deed Restricted Area; the Public Access Easement areas required by Special Condition 2; and the Open Space and Habitat Conservation Easement area required by Special Condition 3. The Deed Restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. The Deed Restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

- 5. Water & Wastewater Will Serve.** **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the Permittee shall submit updated water and wastewater service commitments from the Davenport Water and Sanitation District to the Executive Director of the Coastal Commission for review and approval. Such commitments shall include revised calculations of water use and wastewater generation based on the Revised Project Plans required by Special Condition 1 of this approval.
- 6. Archaeological Monitoring.** **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the Permittee shall submit a plan to the Executive Director of the Coastal Commission providing for archaeological monitoring, evaluation and mitigation should any archaeological resources be discovered during construction. If such archaeological resources are discovered at any time during construction, all work which could damage or destroy these resources shall be temporarily suspended and all procedures established in current Santa Cruz County Code Sections 16.40.040 and 16.44.070 shall be observed.
- 7. Landscape Monitoring Report.** **WITHIN TWO YEARS OF OCCUPANCY OF THE APPROVED COMMERCIAL MIXED USE BUILDING,** the Permittee shall submit a landscape monitoring report to the Executive Director for review and approval. Such report shall include photographs of all portions of the site as viewed from the Highway One right-of-way and all landscaping. In the event that in the opinion of the Executive Director landscaping is disrupting the public view across the property from



Highway One, the Executive Director shall detail to the Permittee revised landscaping requirements for different areas of the property. The Permittee shall implement the revised landscaping requirements. In the event that the Permittee disagrees with the Executive Director's assessment, the Executive Director shall schedule the monitoring report as a condition compliance item for the Coastal Commission's review and approval.

8. **Public Rights.** The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights which may exist on the property. The Permittee shall not use this permit as evidence of a waiver of any public rights which may exist on the property.
9. **Santa Cruz County Conditions.** All previous conditions of approval imposed on the project by the Santa Cruz County pursuant to an authority other than the California Coastal Act remain in effect (Santa Cruz County Application Number 95-0685; see Exhibit C). To the extent such Santa Cruz County conditions conflict with the Coastal Commission's conditions for Coastal Development Permit Number A-3-SCO-98-101, such conflicts shall be resolved in favor of the conditions for Coastal Development Permit Number A-3-SCO-98-101.

Recommended Findings and Declarations

The Commission finds and declares as follows:

5. Project Description

A. Project Location

The proposed project is located in the unincorporated Town of Davenport, approximately ten miles north of the City of Santa Cruz. Davenport is a small coastal town surrounded by the coastal foothills and agricultural fields fronting Highway One on Santa Cruz's rural north coast. Davenport is the only concentrated development area on Highway One along the mostly undeveloped stretch of Central Coast extending between Santa Cruz and Half Moon Bay. This stretch of California's coastline, characterized largely by agricultural fields and vast state parklands, represents the grandeur of a bygone (in many places) agrarian wilderness California and is a critical public viewshed. Davenport provides a convenient stopping place and a visitor destination for travelers along this mostly undeveloped coastline.

Other than an abandoned building north of the project site, the existing building on the project site is the only development on the coastal side of Highway One in Davenport. The town's residential population of approximately 200 generally live in modest single-family dwellings located inland of the Highway. Aside from the cement plant industrial facility, there are approximately 20,000 square feet of commercial, warehousing and manufacturing uses on the inland side of the Highway. Restaurants, a grocery, and a bed and breakfast currently serve visitors traveling the scenic coastline. Davenport is overshadowed by the Lone Star Cement Plant, a major industrial facility to the north of town. Ignoring the overbearing presence



of the cement plant, this commercial frontage could be described as “eclectic frontier rustic” in character. There are a variety of building styles, mostly two stories or equivalent height, in a simple architectural style. Davenport itself is a widely renowned whale watching and visitor destination that has been recognized within the LCP for its special community character – a windswept character within which the subject site plays an important role.

The project site is located on the seaward side of Highway One on the coastal terrace overlooking Davenport Beach and the Pacific Ocean. The subject 3.04 acre parcel is a long rectangular shape (approximately 140 by 900 feet) with its northeastern length contiguous to Highway One (see Exhibit A). A Union Pacific railroad easement crosses the parcel at its southwestern boundary extending the length of the parcel. The southerly third of the parcel, at elevations of 30-60 feet Mean Sea Level (MSL), is a portion of the upper slope of San Vicente Creek and is vegetated with riparian species. The center of the parcel, at elevations of 65-72 feet MSL, contains an existing roughly 13,000 square foot building and associated parking (referred to as the “lower level” in this report). The northerly third of the parcel is an undeveloped fragment of coastal terrace at elevations of 80-94 feet MSL (referred to as the “upper level” in this report). The upper level currently comprises an open field on the southern half and an informal dirt parking area used by the general public on the northern half.

Across this upper level, southbound travelers on Highway One through Davenport can view distant cliff faces to the south, glimpses of whitewater where the surf crashes against the shoreline, and a broad expanse of bluewater representing the outer reaches of Monterey Bay, as they pass the upper site. To the northwest of the subject site on the ocean side of the Highway is a vacant property owned by Lone Star where many people park informally to view the ocean or access various trails that meander across the adjacent coastal bluffs (immediately adjacent to the informal parking area on the project site). The land to the southeast of the riparian portion of the site rises to a marine terrace and is also vacant. Farther to the southeast this bluff top area is farmed in row crops. To the southwest beyond the railroad right-of-way are a vacant marine terrace, Davenport Beach, and the Pacific Ocean.

Access trails crisscross the coastal bluffs seaward of Highway One at this site. An existing trail to the southeast of the Applicant’s building on the subject site is used by pedestrians to access the beach. A less direct route to the beach is achieved by traversing one of several eroded foot trails from the vacant upper bluff portion of the site down a slope to the railroad. These trails converge at trails paralleling the railroad tracks which continue northerly to the beach.

See Exhibits A and B for project location and photos of the site and the general Davenport environs along Highway One.

B. Description of Proposed Project

1. Santa Cruz County-Approved Project

The County-approved project would have allowed the Applicant to reconstruct the existing roughly 13,000 square foot structure into a roughly 23,000 square foot structure. The additional roughly 10,000 square foot of floor area would be primarily achieved by converting the existing mezzanine to a full



second story. The height of the building would be increased by roughly 6 feet to achieve the interior clearance for a second story floor space within a portion of the building. The structure was a former agricultural packing shed that was converted to a dwelling and several workshops in 1974 under County Use Permit 74-124-U. The County permit was amended in 1984 to allow a juice manufacturing and wholesaling business to locate on the site. A portion of the building is currently leased to the juice company for use as a regional distribution facility. The building also continues to provide residential use.

The County approval included: a Master Occupancy Program for a mixed use project of 22,918 square feet; a permit for excavation of 1,350 cubic yards of earth to construct a parking lot on the northern site to serve the proposed use; a rezoning of the property from the “C-1” (Neighborhood Commercial) Zone district to the “SU” (Special Use) zone district to allow mixed uses on the site; and a variance to reduce the front yard setback to 0 feet for a 53 linear foot portion of the building. A separate greenhouse, boat-shaped residence, shower building, and tool shed were also approved. A total of 79 parking spaces (upper and lower lots combined) were approved. Finally, the County-approved project includes dedication of two existing access trails, construction of an access stairway, provision of benches on the west side of the parking lot for public viewing use, and granting of a right-of-way for a possible future connection from the parking lot to the adjacent parking area. The County approved the project in 3 phases.

See Exhibit C the County’s adopted findings and conditions.

2. Remand Project Description

Since the appeal of the County’s action, the Applicant has revised the project description multiple times. The project currently before the Commission is the project that the Commission agreed to consider in settling the Superior Court litigation, described in the stipulated remand (Case Number CV 136954) and consists of the following:

- Main building: Modification of existing 24 foot tall building into a two-story 23,000 square foot, structure with a maximum height of 30 feet.
- Range of uses: restaurant with associated office and detached 600 square foot greenhouse (roughly 35% of the overall square footage); food processing operation with associated warehousing (26%); 5 overnight units with associated day spa and office (21%); one 2 bedroom private residence and one residential caretakers unit (15%); and one retail shop (3%).
- Parking lots: Two parking lot areas proposed: 1) a 20 space parking lot in the upper bluff area, with a roughly 200 linear foot (along the highway) by 25 foot wide access driveway, depressed 2 feet below existing grade; and 2) a 22 space parking lot in the existing parking area (on the lower portion of the site).
- Public access amenities: construction and dedication of 4 trails; 3 vertical (from Highway One to the railroad line) and 1 lateral (blufftop parking lot area). Installation of a publicly available stairway, benches, and viewing platform.



See Exhibits E and F for revised project site plan, elevations, floor plans, parking lot plans, photo simulation, and public access amenities and management plan.

6. Coastal Development Permit Determination

A. Special Coastal Community and Visual Issues

1. Applicable Policies

The County's LCP is extremely protective of coastal zone visual resources, particularly views from public roads, and especially along the shoreline, and of the special community character of Davenport itself. Many of the applicable LCP policies and objectives interrelate and overlap at the subject site. The significant LCP policies are:

A. Visual Resource Policies

Objective 5.10.b New Development in Visual Resource Areas. To ensure that new development is appropriately designed and constructed to minimal to no adverse impact upon identified visual resources.

Policy 5.10.10 Designation of Scenic Roads. The following roads and highways are valued for their vistas. The public vistas from these roads shall be afforded the highest level of protection. State Highways: Route 1 – from San Mateo County to Monterey County...

Policy 5.10.2 Development Within Visual Resource Areas. Recognize that visual resources of Santa Cruz County possess diverse characteristics.... Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these resources consistent with the objectives and policies of this section. Require discretionary review for all development within the visual resource area of Highway One, outside the Urban/Rural boundary, as designated on the GP/LCP Visual Resources Map and apply the design criteria of Section 13.20.130 of the County's zoning ordinance to such development.

Policy 5.10.3 Protection of Public Vistas. Protect significant public vistas as described in policy 5.10.2 from all publicly used roads and vistas points by minimizing disruption of landform and aesthetic character caused by grading operations, timber harvests, utility wires and poles, signs, inappropriate landscaping and structure design. Provide necessary landscaping to screen development which is unavoidably sited within these vistas.

Policy 5.10.6 Preserving Ocean Vistas. Where public ocean vistas exist, require that these vistas be retained to the maximum extent possible as a condition of approval for any new development.



Policy 5.10.9 Restoration of Scenic Areas. *Require on-site restoration of visually blighted conditions as a mitigating condition of permit approval for new development. The type and amount of restoration shall be commensurate with the size of the project for which the permit is issued. Provide technical assistance for restoration of blighted areas.*

Policy 5.10.11 Development Visible From Rural Scenic Roads. *In the viewsheds of rural scenic roads, require new discretionary development, including development envelopes in proposed land divisions, to be sited out of public view, obscured by natural landforms and/or existing vegetation. Where proposed structures on existing lots are unavoidably visible from scenic roads, identify those visual qualities worthy of protection (See policy 5.10.2) and require the siting, architectural design and landscaping to mitigate the impacts on those visual qualities. (See policy 5.14.10.)*

Objective 5.11 Open Space Preservation. *To identify and preserve in open space uses those areas which are not suited to development due to the presence of natural resource values or physical development hazards.*

Policy 5.10.13 Landscaping Requirements. *All grading and land disturbance projects visible from scenic roads shall conform to the following visual mitigation conditions:*

- (a) Blend contours of finished surface with the adjacent natural terrain and landscape to achieve a smooth transition and natural appearance; and*
- (b) Incorporate only characteristic or indigenous plant species appropriate for the areas*

Section 13.20.130(b)(1) Entire Coastal Zone, Visual Compatibility. *The following Design Criteria shall apply to projects site anywhere in the coastal zone: All new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas.*

Section 13.20.130(d)(1) Beach Viewsheds, Blufftop Development. *The following Design Criteria shall apply to all projects located on blufftops and visible from beaches: Blufftop development and landscaping...in rural areas shall be set back from the bluff edge a sufficient distance to be out of sight from the shoreline, or if infeasible, not visually intrusive.*

Section 13.11.074(b)(1) Access, Circulation and Parking, Parking Lot Design. *It shall be an objective to reduce the visual impact and scale of interior driveways, parking and paving.*

- (i) The site design shall minimize the visual impact of pavement and parked vehicles. Parking design shall be an integral element of the site design. Siting building toward the front or middle portion of the lot and parking areas to the rear or side of the lot is encouraged...*
- (ii) Parking areas shall be screened from public streets using landscaping, berms, fences, walls, buildings, and other means...*
- (iii) Variation in pavement width, the use of texture and color variation in paving materials,*



such as stamped concrete, stone, brick, pavers, exposed aggregate, or colored concrete is encouraged in parking lots to promote pedestrian safety and to minimize the visual impact of large expanses of pavement.

B. Davenport Special Community

Policy 8.8.2. Coastal Special Community Designation. *Maintain a Coastal Special Community Designation for...Davenport...*

Objective 8.8, Villages, Towns and Special Communities. *To recognize certain established urban and rural villages as well as Coastal Special Communities for their unique characteristics and/or popularity as visitor destination points; to preserve and enhance these communities through design review ensuring the compatibility of new development with the existing character of these areas.*

Policy 8.8.4. Davenport Character. *Require new development to be consistent with the height bulk, scale, materials and setbacks of existing development: generally small scale, one or two story structures of wood construction.*

Program 8.8(a) Davenport Special Community. *Enhance Davenport as a visual focus along Highway One. Prepare a landscaping and design plan, in accordance with the policies of this section, to achieve the following objectives: (1) Clear, coordinated circulation including: clear definition of stopping spaces (parking) along the highway frontage for both cars and bicycles; clearly articulated pedestrian crossings; adequate parking off Highway One, nearby, for existing and new uses, and for visitors; bicycle parking facilities to make the town a more attractive bicycle destination/stop over point. (2) Landscaping to enhance commercial areas, and to assist in definition of parking spaces and walkways, and in screening of parking as appropriate. (3) Emphasis on the area's whaling history and whale viewing opportunities. (4) Elimination of visually intrusive overhead wires. (5) Screening of the cement plant and its parking lot from the residential area to the north.*

In addition, LCP Figure 2-5 identifies the parcels immediately north of the subject site on the seaward side of the Highway as “Coastal Priority Sites – North Coast” (APNs 058-072-01,02,03). These adjacent parcels are subject to the following special development standards:

Depress and landscape the parking area to limit its visibility from Highway One and to maintain unobstructed coastal views. Allow landscaping only with ground cover and low growing vegetation which can not grow to a height that will obstruct coastal views. Eliminate all roadside parking along the property frontage, and provide interior pedestrian circulation to separate pedestrians from Highway One.

Section 13.20.143(c) Davenport Special Community Design Criteria, Highway One Frontage. *Development along Davenport's Highway One frontage shall conform to the following objectives:*



1. Davenport shall be emphasized as a rural community center and as a visitor serving area including: (i) Site design shall emphasize the historic assets of the town, its whaling history and whale viewing opportunities;...(iii) Landscaping shall tie together and accent the commercial uses, and assist in the definition of walkways and parking areas, and/or screens parking.

2. Clear, coordinated circulation shall be developed including:...(iii) adequate parking off Highway One, for existing and new uses, and for visitors...

C. Zoning Designation

Policy 2.13.4 Expansion of Neighborhood Commercial Designation. Only allow Neighborhood Commercial uses that are small scale, appropriate to a neighborhood or visitor service area and which will not have adverse traffic, noise, and aesthetic impacts on the adjacent residential areas...

Policy 2.13.6 Compatibility with Adjacent Development. Ensure compatibility between Neighborhood Commercial development and adjacent areas through Commercial Development Permit procedures to regulate siting, design, landscaping, signage, parking and circulation, drainage, and access...

Policy 2.16.7 Design of Visitor Accommodations. Ensure quality of design for visitor accommodations through Commercial Development Permit procedures, including the Zoning ordinance, to regulate density, signage, landscaping, buffering, on-site circulation and access, parking, and site and building design.

Section 13.10.383(a) Development Standards for the Special Use “SU” District, Site and Structural Dimensions....For structures other than single-family dwellings and accessory structures, the building height limits, required site area, required yards, and other regulations for any use shall be in keeping with the requirements, restrictions or regulations provided in this Chapter (13.10) for the most restrictive district within which the use is allowed.

Section 13.10.384 Design Criteria for the Special Use “SU” District, Other [than residential] Uses. The design criteria for all other [than residential] uses shall be as provided in this Chapter for the most restrictive district within which the use is allowed.

Note: There is a technical issue concerning specific development standards for the proposed project. The site would be rezoned SU (Special Use) as part of the project to allow for the range of uses proposed.¹ The County analysis concluded that applicable zoning standards for the property are those that most closely correspond to the General Plan designation of the property – in this case, Neighborhood Commercial. The County further assumed that the purpose of the SU district, to which the County rezoned this property, is to implement the Neighborhood Commercial LUP land use designation, which itself is implemented through the three zoning districts of C-1, CT, and PA. Under this interpretation, the most

¹ See also land use consistency findings that follow.



restrictive site and structural development standards of these three districts would be applicable to this project. The C-1, CT, and PA maximum height (35 feet) and minimum front yard setback (10 feet) requirements are identical to each other.

However, LCP Section 13.10.383(a) governing development standards for the SU district actually requires use of the most restrictive zoning district within which the use is allowed. This is to safeguard against the overly broad nature of the SU zoning district, the broad purpose of which is simply to allow for mixed use developments where appropriate, not implement the underlying land use designation per se. The following are the proposed project’s non-residential uses, the most restrictive zoning district in which they are allowed, and the associated maximum height and minimum front yard setback.

Use	Most restrictive zoning district within which the use is allowed	Maximum height	Minimum front yard setback
Restaurant/café	PR	28’	30’
Food manufacturing & warehouse	M-1,PA,VA,CT,C-1,C-2	35’	15’
Offices	VA,CT,C-1,C-2,C-4	35’	10’
Retail sales, neighborhood-scale	PR (not full range of uses) VA,CT,C-1,C-2,C-4	28’ 35’	30’ 10’
Day spa, sauna, hot tub	PR	28’	30’
Type A overnight visitor accommodations	PR	28’	30’
Parking lots	PR	---	30’
Most restrictive standards for proposed uses	PR	28 feet	30 feet

The LCP Code section is not explicit in addressing which most restrictive district to use in the case of multiple uses within varying districts. The most direct reading is that the most restrictive of the zoning districts for any of the uses applies. In this case, the predominant uses are permitted in the PR district, which has the most restrictive height limit of 28 feet and the most restrictive front yard setback of 30 feet;² thus these are the height and setback standards applicable to the proposed project.

D. Coastal Act

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea “shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3.” Because this project is located seaward of the first through public road (Highway One), for public access and

² Note also that both the lower portion of the property encompassing the San Vicente Creek riparian corridor and adjacent properties to the south and east are designated “PR.”



recreation issues the standard of review is not only the certified LCP but also the access and recreation policies of the Coastal Act. Visual access to and along the coast is a form of public access. As such, the standard of review for visual access is not only the certified LCP but also the access policies of the Coastal Act. Applicable Coastal Act policies are:

***Section 30210.** In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

***Section 30211.** Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

***Section 30251.** The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

2. Consistency with Applicable Policies

The County's LCP and the Coastal Act are fiercely protective of coastal zone visual resources, and specifically protective of the views available from Highway One as it winds through the County from San Mateo to Monterey County lines. In fact, the LCP states that the public vista from Highway One "shall be afforded the highest level of protection" (LCP Policy 5.10.10). This section of Highway One is also specifically identified as eligible for official designation as part of the California Scenic Highway Program. The subject site is located roughly 10 miles upcoast of the City of Santa Cruz along the mostly undeveloped stretch of Central Coast extending between the Cities of Santa Cruz and Half Moon Bay to the south. The north Santa Cruz coast area represents the grandeur of a bygone (in many places) agrarian wilderness California and is a critical public viewshed for which the LCP dictates maximum protection.

The LCP likewise is protective of the Town of Davenport, calling out this enclave as a "Coastal Special Community" (LCP Policy 8.8.2). New development is to be subservient to maintaining the community's character through preserving and enhancing Davenport's unique characteristics. The Highway One frontage is to be emphasized as both a rural community center and a visitor serving area where site design is required to emphasize the historic assets of the town. Davenport is a widely renowned whale watching and visitor destination that has been recognized within the LCP for its special community character – a windswept character within which the subject site plays an important role.



These LCP policies taken together require in effect that the impacts of new development in view of Highway One be minimized, and that new development in Davenport be designed and integrated into the existing community character and aesthetic. The questions of “small-scale” and Davenport’s “community character” are thus central to the Commission’s review of this project.

A. Davenport Community Character

Davenport’s tightly clustered residential and commercial development reflect the town’s working heritage: whaling industry, agricultural shipping and processing, and cement manufacture. In its layout and simplicity of architecture – devoid of pretense – Davenport is strongly reminiscent of other “company” mining or logging towns in the West. Today, the quarrying and processing of limestone for the manufacture of cement remain the economic backbone of the community. Some diversification is offered by small-scale artisan industries (e.g., glassblowing). More recently, the two-block commercial strip along the highway frontage continues the process of awakening to the opportunities afforded by the tourist industry.

Currently, the Lone Star Industries cement plant overshadows Davenport. This large industrial structure can be seen for miles and is in contrast to the rest of the small town. Notwithstanding the cement plant, Davenport’s commercial frontage could be described as “eclectic frontier rustic” in character based on the variety of building styles, materials, and heights. Remodeling along the highway frontage has more recently injected a more finished facade as seen from the highway. The project site contains the only significant existing building on the seaward side of the highway in Davenport. See Exhibits A and B for photos of the general site vicinity and Davenport’s Highway One frontage.

B. Modifications to Existing Building

When evaluating the character of an individual building as it relates to other buildings in a community, a number of factors need to be considered, including the building’s proportions, layout, exterior finish and any architectural embellishments. Equally important are height, bulk, and other considerations of scale.

In this case, the existing building, which until recently housed the Odwalla juice works, is a long, low-profile wooden structure built as a railroad shipping shed and formerly in use as an agricultural packing and processing plant. It is visible in public views from the highway as well as the beach below. The exterior of the building reflects its industrial purpose. It presents a totally functional, straightforward, unadorned appearance. As such, it is entirely consistent with – and contributes to – the aforementioned Davenport community character.

In terms of scale, the existing building’s “footprint” (roughly 13,000 square feet) combined with its height (24 feet above grade) make it the largest existing building (outside the Lone Star cement plant) along Davenport’s Highway One frontage. The building’s scale is somewhat tempered, however, by its location partially below the grade of the highway (existing pad grade at the base of the existing building ranges from equal to Highway grade at the building’s southernmost end to about 12 feet below highway grade at the at the building’s northern end). In any case, the architectural style, scale, and visual prominence of this building seaward of the highway plays an important role in defining Davenport’s special character. In particular, as the biggest building of its kind, it establishes the appropriate limits of scale in this small-scale community.



The proposed project would rehabilitate and modify this existing structure to accommodate (mostly) new uses; some of which would be visitor-serving uses. In order to accommodate the new uses, the existing footprint would be enlarged by over 700 square feet and the height would be increased to a maximum height of 30 feet.³ As a result, the effort to accommodate the new and increased level of uses results in a bulkier appearance and a larger building profile (or “skyprint”), which in turn increases the amount of development between Highway One and the scenic shoreline of the Santa Cruz County coast, as well as increases the amount of development visible from Davenport Beach.

The Santa Cruz County LCP has two fundamental strategies for protecting the coast’s scenic resources at this location: (1) minimize the amount of new development seaward of Highway One; and (2) insure that new development is appropriately scaled to fit into existing small-scale coastal communities. In this case, allowing an increased building profile at this critical Highway One location is not consistent with either strategy. As detailed above, the maximum height allowed based on the SU zoning for this mixed use project is 28 feet. This Countywide maximum does not represent an entitlement, rather an upper threshold that must be considered in light of the specific resource constraints at this location. Here we have the most prominent coastal site in Davenport, an LCP-designated special community, located along Highway One, an LCP-designated, and State Scenic Highway Program-recognized, Scenic Road; any zoning maximums must be tempered by these (and other) factors.

There are complementary LCP policies at play here. Applicable LCP visual policies dictate protection of the critical public view here through “minimizing disruption” (LCP Policy 5.10.3) so as to “have minimal to no adverse impact upon identified visual resources” (LCP Objective 5.10.b). LCP Policy 5.10.11 requires new development visible from rural scenic roads, such as Highway One in this rural stretch of the County, to be sited outside of public view. The LCP specifically requires the public vista at this location to “be afforded the highest level of protection” (LCP Policy 5.10.10); requires preservation of the ocean vista (LCP Policy 5.10.6); and requires development to be out of sight from the beach below if feasible (LCP Section 13.20.130(d)(1)). LCP Policy 8.8.4 requires that the development be consistent with “the height, bulk, scale, materials, and setbacks of existing development” here. LCP Policy 5.10.3 concludes that screening shall be provided where development is “unavoidably sited” within visual resource areas. Finally, the Coastal Act recognizes the public view at the site as a “resource of public importance” that must be protected from interference (Sections 30211 and 30251).

To avoid additional development blocking the public viewshed (both views from the Highway seaward and from the beach and ocean of the bluffs), and to maintain the same scale and bulk of development at this defining site along Davenport’s Highway One frontage, the existing footprint⁴ and profile of the building must be maintained. Such adaptive reuse of older buildings in the public viewshed, especially those that contribute to community character, is more appropriate in light of LCP policies applicable to this location. Screening vegetation should be kept to the minimum necessary to block views of the structure while leaving views of the coast otherwise unhindered. Likewise, to ensure that the remodeled structure

³ Although the Applicant’s project description (Exhibit E) indicates that the current proposal has lowered the foundation by two feet (and thus the overall height correspondingly, the Applicant’s proposed plans indicate that approximately two-thirds of the building would be at a height of 29 feet and the remainder at a height of 30 feet.

⁴ Except for that portion of the existing building that is currently located within the Highway One right-of-way (see below).



harmonizes with the viewshed and community character aesthetic, specific design parameters are necessary so that the rustic nature of the existing former agricultural building is not lost (e.g., earthen tone colors, wood sheathing, corrugated metals, minimal night lighting, minimal rustic fencing, underground utilities, etc.). Such project modifications will ensure that development is avoided in the viewshed where it is feasible to do so (5.10.3, 5.10.11), will minimize adverse impacts on the critical Highway One (5.10.b) and beach (13.20.130(d)(1)) viewsheds, preserves the ocean vista (5.10.6), “affords the highest level of protection” to both the public vista (5.10.10) as well as the special community character of Davenport (8.8, 8.8.4), and protects the public’s view access here (30211 and 30251). See Special Conditions 1, 4, and 7.

In order to achieve a full second story within the existing profile of the building, the Applicant may need to recess the building’s foundation. This appears to be feasible and, in any case, necessary to achieve LCP compliance at this sensitive site. The Applicant has indicated in their project description that the grade of the building foundation can be lowered.

The substantial non-conformance of the existing structure (i.e., being located in the Highway One right-of-way) must be corrected to ensure LCP consistency. Such development (and additions thereto) cannot be allowed to remain within the right-of-way because the right-of-way may be needed in the future for public or vehicular access purposes. In addition, it is contrary to the aforementioned LCP viewshed policies to allow such a significant non-conforming structural element seaward of Highway One at this location. As such, it would not be possible to make the requisite LCP findings to allow additions to the non-conforming structure here (LCP Section 13.10.265(J)). Accordingly, the structural footprint of the existing building must be removed from the Highway One right-of-way. See Special Condition 1.

As detailed above, the applicable setback for such an SU site is 30 feet; the minimum front yard setback for commercial properties is 10 feet. A 30 foot setback in light of the fact that the existing structure is currently within the right-of-way seems overly restrictive here given that the existing structure, including its non-conformance, is a defining element of the Davenport community aesthetic. A more appropriate guidestick for the building’s front yard setback is provided by the commercial setback requirement of 10 feet. Such a setback distance would ensure that the development is adequately pulled back from the Highway One frontage and shouldn’t hinder potential future Highway One improvements. To allow for a front setback of less than 30 feet, a variance to the front setback would be required here. Such a setback variance is appropriate in this instance because: (1) the minimum front yard setback for commercial properties is 10 feet and the underlying land use designation at this site is neighborhood commercial; (2) strict application of the 30 foot setback would deprive the property of the same type of commercial setback as found on the inland Highway One frontage; (3) as conditioned herein, the variance would be otherwise compatible with the intent and purpose of the LCP policies for this site and would not be detrimental to the public or adjacent properties; and (4) granting a variance would not be a special privilege inconsistent with the current limitations placed on property along the Davenport frontage.⁵

C. Parking Lots

⁵ See conclusion to the visual-community character findings for the required variance findings.



The Applicants propose two parking lots: a 20 space parking lot in the upper bluff area and a 22 space parking lot to replace the existing parking lot on the lower portion of the site located between the Highway and the building (see Exhibit F). The parking lot proposed on the lower (southeast) portion of the site (within the same general area that existing users of the building park) raises questions of consistency with the applicable Highway One setback, and must include appropriate drainage controls, and landscape treatment, but does not otherwise raise LCP consistency issues. This existing lower level parking lot next to the existing building is partially below Highway grade for the most part, currently occupied by vehicles, and currently mostly screened from view. A continuation or even slight intensification of this ongoing use located between the existing building and Highway One, provided it is sensitive to the character of the development and Davenport, would not otherwise raise LCP concerns.

In contrast, however, the parking area proposed for the undeveloped blufftop extending northwest from the existing building is more problematic. Currently, the upper blufftop level of the site is an unpaved, undeveloped fragment of coastal terrace, on part of which the owner allows informal public parking (the extreme northwest portion of the site) and on the other maintains a grassy open blufftop space (see Exhibits A and B for photos). This windswept blufftop area extends along most of the Davenport Highway One frontage here and is a defining feature of the town of Davenport. The southbound Highway One public view across this bluff area includes distant cliff faces to the south, glimpses of whitewater where the surf crashes against the shoreline, and a broad expanse of bluewater representing the outer reaches of Monterey Bay.

The proposed parking lot and access driveway would extend roughly 272 feet across the undeveloped windswept bluff, with the driveway measuring about 25 feet across and the parking area clustered adjacent to the proposed building extending roughly 65 feet across the bluff seaward; the parking facility would be excavated approximately 2 feet below grade. The upper level parking lot is made necessary primarily due to the increased gross square footage and intensity of uses proposed. The proposed project would result in this vacant blufftop area being forever altered from the dusty informality that currently exists here to a formal, paved, landscaped parking lot paralleling the Highway; such a change would forever alter the character of Davenport.

This alteration of community character will result both from substituting a prettified “improved” landscape for one which is rough, dirty, and “rustic,” and from increasing the collected presence of parked motor vehicles in public view. Reflective glare from the sun shining on the vehicles will detract from the visitor experience and the amassed vehicles in the parking lot, when full, would directly impede a portion of the whitewater component of this vista. Thus, the crucial Highway One view would be impaired both by the “visual clutter” effect of the parked automobiles, and by direct blockage of the line of sight to the shoreline, for both travelers on the highway and pedestrians. The proposed design treatments (including recessing the lot and using colorized stamped concrete) would not be sufficient to conceal the assembled mass of motor vehicles in the parking lot. In fact, some of the parking area itself would unavoidably be visible through the entry ramp and vehicles would still be introduced into what is now an unobstructed view of coastal bluff and ocean.

The LCP dictates that public view protection is paramount at this site. Overall, there are three visual imperatives related to the proposed upper parking lot. One is the necessity to protect the view corridor to



the rocky shoreline from where it is visible from Highway One. The second is the general necessity to protect the blufftop's open space character. The third is to maintain Davenport's rustic, small-scale community character. These objectives can best be met by eliminating the formal parking lot on the upper bluff area from the project.

As with the main building remodel, there are complementary LCP policies at play here that dictate protection of the critical public view over the blufftop area through "minimizing disruption" (LCP Policy 5.10.3) so as to "have minimal to no adverse impact upon identified visual resources" (LCP Objective 5.10.b). LCP Policy 5.10.11 requires that such parking lot development be sited outside of public view, and specifically requires protection of the natural landform from the grading proposed to recess the parking lot here (LCP Policy 5.10.3). The LCP specifically requires the public vista at this location to "be afforded the highest level of protection" (LCP Policy 5.10.10); and requires preservation of the ocean vista "to the maximum extent possible" (LCP Policy 5.10.6). The LCP requires preservation of Davenport's community character here (LCP Objective 8.8, LCP Policy 8.8.4). In addition, the Coastal Act recognizes the public view at the site as a "resource of public importance" that must be protected from interference (Sections 30211 and 30251). LCP Policy 5.10.3 concludes that screening shall be provided where development is "unavoidably sited" within visual resource areas.

The proposed parking lot is not "unavoidably sited" in this critical public viewshed location here. There are other options for expanding parking as necessary in the lower portion of the site that would avoid such a new upper bluff parking lot altogether. There is adequate space available on the lower portion of the site to have a parking lot of 42 spaces (sufficient to accommodate the range of appropriate uses here),⁶ while maintaining adequate outdoor garden/lawn area for the project uses (see Exhibit K). It is only by eliminating the proposed upper bluff parking lot can the parking lot be kept out of the public viewshed here (5.10.3, 5.10.11), can disruption of the viewshed be minimized to have no new adverse effect on the view (5.10.b, 5.10.3), can landform disruption from grading be fully minimized (5.10.3), and can the existing public views be preserved "to the maximum extent possible" (5.10.6), and can the public's view access here be protected from interference (30211 and 30251). Likewise, by maintaining the existing windswept open space character of the upper bluff area, Davenport's character, with emphasis on its whale viewing opportunities, is preserved unaltered (8.8, 8.8.4, 13.20.143(c)). The LCP demands no less at this defining Davenport location (5.10.10, 8.8). See Special Condition 1.

Finally, as detailed earlier, the Applicant proposes to construct the lower level parking lot area directly adjacent to the Highway One road right-of-way. Although the full Highway One right-of-way is not currently occupied by travel lanes (see Exhibit F), in the event that the full right-of-way is needed in the future for public or vehicular access purposes, a parking lot located at a zero setback from the right-of-way may prejudice and/or preclude public improvements in the public right-of-way; this is unacceptable. In addition, as detailed above, the required front setback for this project is 30 feet.

The area between the proposed veranda fronting the building and the right-of-way is approximately 42 feet. The parking lot could be brought in 4 feet and still allow for a twenty foot accessway and the LCP-

⁶ See land use findings that follow for discussion of appropriate uses and parking requirements for the project.



required 18 foot in length parking stalls (i.e., 4' + 20' + 18' = 42'). Such a shift would be more consistent with the front yard setback requirements. See Special Condition 1. A variance to site development standards, though, would be necessary to allow the 4 foot setback when a 30 foot setback is the minimum required. Such a setback variance is appropriate in this instance because: (1) the minimum front yard setback for commercial properties is 10 feet and the underlying land use designation at this site is neighborhood commercial; (2) because strict application of the 30 foot setback would deprive the property of a parking area; (3) as conditioned herein, the variance would be otherwise compatible with the intent and purpose of the LCP policies for this site and would not be detrimental to the public or adjacent properties; and (4) would not be a special privilege inconsistent with the current limitations placed on property along the Davenport frontage.⁷

D. Other Improvements

Greenhouse

The Applicant also proposes to construct a 600 square foot, roughly 12 foot tall greenhouse, designed to mimic the main building in design, on the lower portion of the site (see Exhibit F).⁸ The Applicant has indicated that the greenhouse would provide vegetables and herbs for the proposed restaurant, but there are not yet interior plans for this space making this clear. To the extent that the greenhouse can be tied directly to the proposed restaurant and not allowed to change to some other more intensive use (e.g., residential guest cottage), and to the extent that such a structure could be hidden from public viewing areas by the southeastern cypress hedge, the greenhouse would be supportive of a visitor serving use that would not impact the public viewshed. See Special Conditions 1 and 4.

Signs

While not specifically part of the application before the Commission, the County approved two signs totaling 50 square feet, or an average of 25 square feet. As previously noted, the most restrictive sign standards apply to this site pursuant to LCP Section 13.10.384 for the “SU” zoning district; site development standards limit this site to only one sign up to 12 square feet.⁹ In this case, while only one sign is necessary since the upper parking lot cannot be a part of the project (see previous parking lot findings), a 12 square foot sign for the multiple uses proposed here would be overly limiting. A 25 square foot sign, the same size as approved by the County, would appear to strike an appropriate balance between viewshed/community character concerns and the need to advertise the range of uses within the project; of course the sign would have to be sensitively designed appropriate to this critical site (i.e., designed and sited so as to minimize intrusion on the view; consistent with the architectural character of the main building and an integral part of the landscape area; without interior sign illumination; no plastic signs, etc.). See Special Condition 1.

⁷ See conclusion to the visual-community character findings for the required variance findings.

⁸ Note there is some discrepancy in that the remand project description describes this greenhouse as 600 square feet while the remand project plans show this structure as roughly 15' x 25' (or 375 square feet). The previous elevations provided by the Applicant, and the only greenhouse plans provided to date (see Exhibit F), showed this structure as roughly 18' x 38' (or 684 square feet).

⁹ The sign limitation in the PR district.



A variance is necessary to allow an increase from a 12 square foot to a 25 square foot sign. A variance to the sign limitation is appropriate in this case for several reasons: (1) the lower entrance is somewhat hidden on the far end the property for Highway One motorists; (2) the uses allowed are visitor-oriented commercial, not just public recreational; (3) there are potentially multiple uses; (4) the site was previously zoned C-1; (5) and the building itself is largely hidden and the mixed use development would benefit from a larger sized sign.¹⁰

Bridge, Upper Bluff Paths and Fences, and Stairway

The Applicant also proposes to construct a bridge from the upper level of the building to connect to the upper bluff area of the site. As proposed, this bridge would connect through to the Applicants proposed parking lot and pathways in this upper bluff area. However, the parking lot must be removed to achieve LCP and Coastal Act consistency, as detailed above. In any case, it would appear reasonable to assume that the overnight and restaurant guests, at the least, may want to gain access to the upper bluff area regardless. To the extent that such a bridge would be hidden by the cypress hedge here (as shown on the Applicant's proposed elevations), and to the extent that the opening in the hedge could be minimized to the smallest feasible to allow access (and not appreciably alter the screening capabilities of the hedge), such a bridge appears to be a reasonable part of the project that would be consistent with the visual and community character policies cited in this finding.

Likewise, the proposed stairway would help to formalize what is currently a difficult climb up and down the rocky slope (in the location proposed for the stairway) that would be beneficial to both patrons of the range of uses in the building as well as the general public.¹¹ The proposed stairway would be largely invisible within the Highway One viewshed as a result of the slope of the upper blufftop portion of the site and the location of the stairway generally below the blufftop plateau. In any case, the stairway too would need to be screened. See Special Condition 1 and 4.

The proposed formal pathway system on the upper bluff, however, would result in a trail "cut" running along the length of the upper bluff area. Such a cut, particularly if paved, may detract from the unhindered windswept view at this location and should be avoided to preserve both visual access and the undeveloped blufftop character consistent with the Davenport community aesthetic at this location. The same is true for any upper blufftop fencing proposed here. See Special Condition 1. Existing pedestrian use will continue whether or not a trail is formalized here. In any case, a more informal trail, such as a meandering decomposed granite trail of some sort designed for low-key access, may be consistent with the community character aesthetic and could be the subject of a future coastal permit application.

Finally, nighttime public views across the property towards the ocean would be negatively impacted to the extent the increased intensity of uses and parking leads to a corresponding increase in nighttime lighting at the subject site. Part of the allure of such public nighttime views along this mostly undeveloped stretch of coast, particularly seaward of the highway, is the darkness itself. In order to ensure that nighttime public views are not negatively impacted here, project lighting and/or glares offsite must be minimized. See

¹⁰ See conclusion to the visual-community character findings for the required variance findings.

¹¹ See also public access findings.



Special Condition 1.

E. Screening Vegetation

The existing building is partially screened from the public's view by existing cypress hedges on both the north and south sides of the building. The hedge to the north is immediately adjacent to the existing building while the hedge to the south extends along the existing beach access path between the building and the San Vicente Creek riparian corridor. These cypress hedges generally provide screening of the structures and parking area at this location from up and downcoast Highway One views. A shorter hedge is located along the seaward side of the existing structure. Although not native to this area, the cypress hedges are a typical landscaping species, drought-tolerant and well-suited to the ocean climate.

There is also a hedge of myoporum within the Caltrans right-of-way fronting of the building. Some concern was raised at the July 1999 Commission hearing that these myoporum trees were an invasive exotic that may move into, and ultimately take over, the San Vicente Creek riparian corridor. The Applicant has subsequently had the project's consulting arborist, Don Cox, evaluate these trees (letter report dated July 25, 1999). The arborist did not locate any myoporum trees or sprouts in the riparian area and concluded that:

In my over 30 years of professional tree care experience I have not found Myoporum laetum to be an aggressive spreading species. For this report, I researched my reference books and found no indication to that effect. I also asked several certified arborist associations their opinion, and all answered in the negative. Included in my survey of professionals is Nigel Belton, local consulting arborist and owner of Arbor Art. Nigel is a native of New Zealand as is Myoporum laetum. He confirmed that "in their native habitat this is not a tree that spreads rapidly by seed or suckers."...My conclusion is that these trees are an appropriate planting, an asset to the property and should not be considered a threat to the riparian corridor.

The Applicant proposes to extend the myoporum hedge slightly south (towards the lower level site entrance) to provide additional screening of the parking area there. Similar to the cypress hedges, although not native to this area, the myoporum are a good landscape tree for the area, being drought and wind tolerant.

In terms of the landscape screen, the LCP dictates that such screening is appropriate to block views of development here; however, such a landscape screen should not of itself block public views if not otherwise necessary to screen development. Again, the LCP specifically requires the public vista at this location to "be afforded the highest level of protection" (LCP Policy 5.10.10); and requires preservation of the ocean vista "to the maximum extent possible" (LCP Policy 5.10.6). LCP Policy 5.10.3 concludes that screening shall be provided where development is "unavoidably sited" within visual resource areas.

In this case, the existing building is unavoidably sited in the public viewshed (i.e., because it currently exists there). It is visible from the beach as well as from the Highway and other public viewing locations along the Davenport frontage. As discussed in the preceding findings, the profile of the existing building will be maintained in order to protect public views and Davenport's character. The parking lot area is currently mostly screened and the myoporum would be extended toward the southwest to further screen



this area.¹² To ensure LCP view requirements are met here, all hedges (myoporum and cypress) between the Highway One right-of-way and the building and parking lot should remain in place for screening purposes, with provisions to maintain the height of hedges at an elevation just high enough to block the building as seen from the Highway One right-of-way. See Special Conditions 1 and 4.

A public view opening would be created across the property through the driveway opening (shifted southwest to match up with Davenport Avenue) and seaward. The hedge present along the southwestern side of the property (between the building and the railroad tracks) would be retained. Members of the public have suggested that the hedge along the railroad tracks be removed to enhance public views from Davenport Avenue. This existing hedge may continue to partially block ocean views from Davenport Avenue somewhat, but not likely more so than does the existing cypress hedge does now from Davenport Avenue. This would not be a significant view impact as compared to the existing baseline situation. Ultimately, a net public view corridor enhancement would likely be realized. In any case, in order to ensure that the landscaping at the site is consistent with maintaining the public viewshed across the subject site from Highway One, this approval is conditioned for a landscaping monitoring report (see Special Condition 7).

Finally, the Applicant has supplied an encroachment permit from Caltrans for the existing Myoporum hedge. However, this reproduction of the 1973 document came from microfiche and is nearly impossible to decipher. Accordingly, Caltrans' review and approval for any landscaping in the right-of-way is necessary. See Special Condition 1.

3. Special Community and Visual Resource Conclusion

The proposed project is located within the critical Highway One public viewshed in the special coastal community of Davenport. LCP visual and community character policies require development here to be subservient to protecting public views, and consistent with the established community character aesthetic – a windswept character within which the subject site plays an important role. Coastal Act visual access policies also protect public view access here. The project as proposed would result in significant disruptions to the public view and would degrade Davenport's rustic, small-scale community character inconsistent with the LCP and Coastal Act policies listed in this finding. To best protect the public viewshed and to preserve Davenport's community character aesthetic consistent with the LCP and Coastal Act, the project must be modified: to retain the existing building's profile and footprint (in tandem with removing the footprint from the Highway One right-of-way); to eliminate the proposed upper bluff parking lot; to ensure adequate screening that does not itself result in public view blockage; to ensure that the main building, parking area, and greenhouse are constructed in a manner sensitive maintaining the rustic, utilitarian architectural style of the existing building. See Exhibit K and Special Conditions 1, 4 and 7.

Finally, as discussed in the findings above, the project as conditioned requires a variance to the minimum front yard setback and sign size standards. For the reasons discussed in the findings above, and as

¹² Consistent with Caltrans' recommendation, the Applicants propose to shift the lower parking lot entrance to the southeast to line up directly opposite Davenport Avenue (i.e., to create a "4-legged" intersection with Highway One). The myoporum would be extended southwest in tandem with the entrance shift.



conditioned, the Commission finds: (1) that because of special circumstances applicable to the property, including size, shape, topography, location, and surrounding existing structures, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification; (2) that the granting of such variance will be in harmony with the general intent and purpose of zoning objectives and will not be materially detrimental to public health, safety or welfare or injurious to property or improvements in the vicinity; and (3) that the granting of such variance shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such is situated.¹³

B. Mixed Uses and Parking Requirements

1. Applicable Policies

The Santa Cruz County LCP land use plan map designates the site as “Neighborhood Commercial” for that portion of the property containing the existing building as well as the upper area of the lot proposed for parking; this section of the property is zoned “C-1” (Neighborhood Commercial). The southern portion of the property (containing the riparian corridor associated with the San Vicente Creek rivermouth) is designated “Existing Parks and Recreation” in the land use plan and zoned “PR” (Park, Recreation, and Open Space). The project includes rezoning the C-1 portion of the property to “SU” (Special Use) to allow for the range of uses proposed. The County LCP states:

A. Neighborhood Commercial Land Use Plan Designation

Objective 2.13 Neighborhood Commercial Designation (C-N). To provide compact, conveniently-located, and well-designed shopping and service uses to meet the needs of individual urban neighborhoods, rural communities and visitors.

Policy 2.13.1 Location of Neighborhood Commercial Uses. Designate on the General Plan and LCP Land Use Maps those areas existing as, or suitable for, Neighborhood Commercial uses to provide small-scale neighborhood and visitor serving businesses within walking distance of urban neighborhoods, visitor attractions, or centrally located to serve rural communities.

Policy 2.13.2 Location of Visitor Serving Neighborhood Commercial Uses. Designate on the General Plan and LCP Land Use Maps Neighborhood Commercial areas specifically suitable for visitor serving commercial uses, based on: proximity to public beaches, the yacht harbor, state parks, or other tourist or recreational attractions.

Policy 2.13.3 Allowed Uses in the Neighborhood Commercial Designation. Allow a variety of retail and service facilities, including neighborhood or visitor oriented retail sales, recreational equipment sales, personal services, limited offices, restaurants, community facilities including child care facilities, schools and studios, rental services, and similar types of retail and service activities.

¹³ Reference: LCP Section 13.10.230(c), findings required for a variance approval.



Policy 2.13.4 Expansion of Neighborhood Commercial Designation. Only allow Neighborhood Commercial uses that are small scale, appropriate to a neighborhood or visitor service area, and which will not have adverse traffic, noise and aesthetic impacts on the adjacent residential areas. Allow the expansion of Neighborhood Commercial land use designations only where: a need and market exists, and the use will not adversely affect adjacent residential neighborhoods.

Policy 2.13.5(a) Visitor Services within Coastal Special Communities. Encourage the provision of visitor serving commercial services within Coastal Special Communities as follows: Davenport: Highway One frontage.

Section 13.10.170(d) Consistent Zone Districts (C-N Neighborhood Commercial). The following table denotes the basic and combining zone districts which implement and are consistent with the various General Plan land use, resource and constraint designations. Rezoning of property to a zone district which is shown in the following Zone Implementation Table as implementing the designation applicable to the property, shall not constitute an amendment of the Local Coastal Program. ...[For] General Plan/Local Coastal Program Land Use Designation C-N Neighborhood Commercial, Zone District[s are:]

C-1 - Neighborhood Commercial
CT - Tourist Commercial
PA - Professional and Administrative Offices

...[For] All Land Use Designations, Zone District[s are:]

PF - Public Facilities
SU - Special Use

Section 13.10.331(e) Specific “C-1” Neighborhood Commercial District Purposes. To provide compact and conveniently located shopping and service uses to meet the limited needs within walking distance of individual urban neighborhoods or centrally located to serve rural communities. Neighborhood Commercial uses and facilities are intended to be of a small scale, with a demonstrated local need or market, appropriate to a neighborhood service area, and to have minimal adverse traffic, noise, or aesthetic impacts on the adjacent residential areas.

Section 13.10.331(d) Specific “CT” Tourist Commercial District Purposes. To encourage and recognize a narrow range of visitor serving uses in appropriate locations in the County on major transportation corridors or in commercial centers where properties have a land use designation on the General Plan of Neighborhood or Community Commercial. Visitor serving uses allowed in this zone district include primarily food services, auto fueling, visitor accommodations, and related accessory uses.

B. “SU” Zoning District

Section 13.10.381(a) Purposes of the Special Use “SU” District, General. To provide for and regulate the use of land for which flexibility of use and regulation are necessary to ensure



consistency with the General Plan, and to encourage the planning of large parcels to achieve integrated design of major developments, good land use planning, and protection of open space, resource, and environmental values.

Section 13.10.381(c) Purposes of the Special Use “SU” District, Mixed Uses. *To provide for the development of lands which are designated on the General Plan for mixed uses, and where the specific portions of the land reserved for each use have not yet been specified or determined in detail.*

Section 13.10.382(a)(2) Uses in the Special Use “SU” District, Allowed Uses. *All uses allowed in Zone District’s other than RA and R-1 shall be allowed in the Special Use “SU” Zone District where consistent with the General Plan...*

C. Visitor Serving Uses

Policy 2.16.1 Location of Visitor Accommodation Designations. *Designate on the General Plan LCP Land Use Maps those areas existing as or suitable for Visitor Accommodations. Require all visitor serving facilities to be located where adequate access and public services and facilities are available, to be designed and operated to be compatible with adjacent land uses, including residential uses, to utilize and complement the scenic and natural setting of the area, and to provide proper management and protection of the environment.*

Policy 2.22.1 Priority of Uses Within the Coastal Zone. *Maintain a hierarchy of land use priorities within the Coastal Zone: First Priority: Agriculture and coastal-dependent industry; Second Priority: Recreation, including parks; visitor serving commercial uses; and coastal recreation facilities; Third Priority: Private residential, general industrial, and general commercial uses.*

Policy 2.22.2 Maintaining Priority Uses. *Prohibit the conversion of any existing priority use to another use, except for another use of equal or higher priority.*

Policy 8.8.3(a) Tourist Commercial Concessions. *Encourage the provision of tourist commercial services within Coastal Special Communities, as follows: Davenport: Highway One frontage.*

D. Parking Requirements

Objective 3.3 Balanced Parking Supply. *To require sufficient parking to meet demand, but limit parking supply and use available parking as efficiently as possible to support trip reduction objectives. Give higher priority to special groups, such as carpoolers and disabled.*

County Code **Section 13.10.552** specifies the number of off-street vehicular and bicycle parking spaces required for different uses. Applicable vehicular parking space requirements are as follows:

- *1 space per 200 square feet of office or retail*



- 1 space per 100 square feet of restaurant plus .3 per employee
- 1.1 space per unit or 1 space per habitable room of visitor accommodation (whichever is more)
- 1 space per 1,000 square feet of warehouse
- 1 space per 600 square feet of manufacturing with a minimum of 2
- 1 space per 33 square feet of meeting room
- 1 space per 200 square feet of public buildings and grounds
- 2 space per one-bedroom residence

Section 13.10.552(e) Handicapped Parking. Parking spaces specifically designed, located and reserved for vehicles licensed by the State for use by the handicapped shall be provided in each parking facility of 10 or more spaces according to the following table:

<u>Total spaces required</u>	<u>Maximum number of handicapped spaces required</u>
10-49	1
50-99	2

Section 13.10.553(b) Reductions in Required Parking. Parking facilities for two or more uses that participate in a parking agreement may be shared thereby reducing the overall parking requirement for the uses if their entrances are located within three hundred (300) feet of the parking facility, if their hours of peak parking do not coincide, and/or it can be demonstrated that the nature or number of uses of the facilities will result in multipurpose trips. Reductions in the total number of parking spaces may be made according to the following table:

<u>Number of independent property users</u>	<u>Reduction allowed</u>
2-4	10%
5-7	15%
8 or more	20%

Section 13.10.553(e) Compact Car Parking. A proportion of the total spaces otherwise required by the Schedule of Offstreet Parking Requirements may be designed and marked for compact car use according to the following table:

<u>Total spaces required</u>	<u>Allowable Percentage of Compact Car Spaces</u>
6-50	10%
51-80	30%
81 or more	40%

2. Consistency with Applicable Policies

A. Proposed Mixed Uses



The proposed project would rezone the property from C-1 to SU. As seen above, such a rezoning does not constitute an LCP amendment (LCP Zoning Code Section 13.10.170(d)). The underlying Neighborhood Commercial LUP designation for the site would not change.

The purpose for the SU rezone is to specifically allow for a mix of uses on the site. The mix of uses proposed are allowed within the three implementing zoning districts for the Neighborhood Commercial LUP designation (C-1, CT, and PA). However, none of these implementing zoning districts alone can account for the range of proposed uses. The existing C-1 zoning does not allow for visitor accommodations. Accordingly, the SU district appears to be a good choice for this site since it allows for a range and mix of uses appropriate to the Neighborhood Commercial designation, including visitor accommodations. Under the LCP, such visitor serving use is a high priority for this important shoreline location. In fact, many other cited LCP policies (e.g., 2.13.3, 2.13.5, 8.8.3) clearly contemplate visitor uses for such an area. Also, given that the LCP is based on the Coastal Act and its support for visitor uses, and given the historic designations on the site, the approved inclusion of a visitor component is appropriate.

The Applicant proposes the following mix of uses:

Proposed Use	Percent of Proposed Project ¹⁴
Restaurant with associated office and detached greenhouse	35%
Food processing operation with associated warehousing	26%
Five overnight units with associated day spa and office ¹⁵	21%
One 2 bedroom private residence and one residential caretakers unit	15%
Retail shop	3%

Over one half (roughly 60%) of square footage allotted to the various proposed uses can be considered visitor serving (including the restaurant, overnight accommodations, spa, and possibly the retail shop). Although the spa is for the use of the overnight guests and not the general public, it would still be considered visitor-serving. Residential uses are not listed as a Neighborhood Commercial use in the land use plan, but residences are allowed in most zoning districts. The warehouse and food processing operation do not appear as appropriate neighborhood commercial uses. However, they are a continuation of the previously-approved use at this site (i.e. Odwalla juice works).

The proposed mix of uses would be predominately visitor-serving and small scale commercial operations consistent with the LUP's Neighborhood Commercial designation. Only the two residential units and the food processing/warehousing uses are not visitor-serving. In terms of the residential units, an exception can be made to allow for a caretaker's quarters, as proposed for the smaller of the two residential units,

¹⁴ As calculated from interior square footages on the proposed plans. Interior public spaces (hallways, foyer, elevator, mechanical, etc.) generally serving the overnight units, spa, restaurant, and retail space were calculated in with these uses served.

¹⁵ Only one office is shown on the proposed plans for both the restaurant and the overnight units.



as an adjunct to the visitor-serving uses otherwise a part of the project. The second, larger, residential use proposed is more problematic in terms of LCP policies. One option would be to replace the larger residential use proposed with 3 additional visitor serving overnight units. Such a modification would be more in tune with providing visitor access to this special site and would not increase parking requirements applicable to this portion of the overall square footage. However, it is not clear that an additional 3 overnight units would or would not be viable at this location, nor is it clear if such additional units would be consistent with the Applicant's overall objectives for the site. Given the substantial visitor-serving nature of the project, such a modification is not absolutely necessary in this case to ensure LCP compliance.

Likewise, an argument could be made that the food processing/warehousing operation, at least to the extent it may supply restaurant and food uses in Davenport (as indicated in the Applicant's project description) and/or to the general public as a cottage industry, could be considered small scale visitor serving commercial. With such caveats, these uses too could be found consistent with the LCP direction for this site as shown in the above applicable policies.

In order to ensure that the uses will be and shall remain small scale visitor serving commercial as directed by the LCP, this approval requires that any changes to the uses and/or configuration of the main structure would require a Commission amendment to this permit (see Special Conditions 1 and 4). The warehousing and manufacturing uses are appropriate at this sensitive location provided they directly provide services either to the site and/or the general Davenport environs. In this way, these uses can be considered small scale cottage industries contributing to the special Davenport community character. Furthermore, in order to ensure that any office space in the proposed building is allotted only to serve priority uses, this approval is conditioned that the office serves the permitted visitor serving uses on site. The greenhouse must be used to serve the on-site restaurant with vegetables and herbs. See Special Condition 4.

B. Parking Required by Uses¹⁶

Although the range of uses proposed, as clarified by condition, are acceptable for this site, adequate parking must be provided. As discussed in the preceding visual/community character finding, the project must be scaled back to reduce adverse visual and community character impacts. In particular, the upper parking lot must be eliminated from the project and the existing footprint and profile of the building maintained.¹⁷ The footprint reduction (to remove the existing building footprint from the Highway One right-of-way and to apply the 10 foot minimum commercial frontage setback) will result in a reduction of roughly 1,000 square feet from the lower level food processing/warehousing area, and potentially some lesser amount from the upper retail area. Eliminating this portion of the building predominantly affects the least compatible of the appropriate uses (i.e., warehousing and food manufacturing). In any case, this reduction will have an effect on the parking requirements for the site. All parking must be provided on the lower level.

¹⁶ Note that public access parking is detailed in the public access findings that follow. The discussion in this finding is limited to the parking required by the mix of uses proposed within the building.

¹⁷ See previous visual and community character findings.



The parking requirements for the proposed uses are calculated in the table below. The below calculations exclude interior circulation areas which do not by themselves draw users within such a mixed use development. The County’s approval had calculated the parking requirement for this interior space as 1 parking space per 200 square feet space. However, the County Code is silent on how such space is to be calculated for parking purposes in a mixed use development. It can be argued that such interior space is not attracting users and, as such, does not require excess parking supply. There may be times when this is not the case (for example, an art show on hallway walls), but, for the most part, such demand is likely zero.

In addition, as provided for by LCP Section 13.10.553(b), the below calculation includes a 15% reduction for 5 to 7 different uses: (1) visitor units; (2) restaurant; (3) retail shops; (4) manufacturing and warehousing; and (5) residential. Such a reduction is appropriate for two reasons. First, the proposed mix of uses would tend to draw users at different times: weekday concentration for warehousing and manufacturing, weekend for overnight units and restaurant; nighttime for overnight units and restaurant, daytime for retail, warehousing and manufacturing. Second, the proposed mix of uses would tend to draw crossover users who would frequent more than one establishment, but use only one parking space per trip: overnight visitors, residents, warehouse and manufacturing employees who then also frequent the restaurant and retail shops; retail shoppers also drawn into the restaurant; et cetera. Such efficient use of spaces is reflected in LCP Parking Objective 3.3. In addition, inasmuch as such a LCP-allowed reduction would allow for a smaller area of the site to be given over to parking lot development, other LCP objectives for viewshed protection and community character are furthered.

The Applicant’s proposal, as modified to retain the existing building footprint, would require at a minimum the following parking spaces as calculated from the submitted plans:

Applicant-proposed use	Parking factor per LCP Section 13.10.552	¹⁸Parking spaces required
Restaurant with associated office and detached greenhouse	2,497 sq.ft. restaurant @ 1 space/100 sq.ft. 412 sq.ft. office @ 1 space/200 sq.ft. 10 employees @ .3 spaces/employee	24.97 2.06 3.00
Food processing operation with associated warehousing	822 sq.ft. food processing ¹⁹ @ 1 space/600 sq.ft. (min 2) 3,976 sq.ft. warehouse ²⁰ @ 1 space/1000 sq.ft.	2.00 3.98
Five overnight units with associated day spa and office ²¹	5 units @ 1.1/unit	5.50

¹⁸ Note: This calculation excludes: (1) storage spaces as provided by LCP Section 13.10.552; and (2) interior circulation areas which do not by themselves draw users within such a mixed use development.

¹⁹ Approximately 912 square feet proposed by Applicant minus the 90 square feet of food manufacturing space that would be eliminated to maintain the existing building footprint and apply the 10 foot setback.

²⁰ Approximately 4,959 square feet proposed by Applicant minus the 983 square feet of warehousing space that would be eliminated to maintain the existing building footprint and apply the 10 foot setback.



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One 2 bedroom private residence and one residential caretakers unit	3 spaces for a two-bedroom residence 2 spaces for the one-bedroom caretaker's unit	3.00 2.00
Retail shop	635 sq.ft. of retail @ 1 space/200 sq.ft.	3.18
	Subtotal	49.68
Mixed use reduction for 5 uses	15%	-7.45
	Total	42.23

Thus, the current proposed configuration and mix of uses would require 42.23 parking spaces. Slightly less depending on the upper floor retail reduction in light of the footprint reduction. It is fair to assume that 42 spaces are the parking requirement here (i.e., if the retail shop is reduced by as little as 52 square feet, the total required is an even 42.00 parking spaces).

In order to maintain community character and visual consistency, all 42 parking spaces must be provided on the lower portion of the site. Based on the site characteristics in this lower area, it appears that all 42 spaces can be provided here. This is accomplished by adding an additional two spaces to the area where the Applicants had proposed a footprint expansion, but the existing footprint is to be maintained, and adding an additional 20 spaces in the area on the southeast side of the building where the existing shed is located and the greenhouse is proposed. This will require moving the shed and greenhouse into the area closest to the cypress hedge running roughly north to south along the existing access path here. See Exhibit K and Special Condition 1.

3. Mixed Uses and Parking Requirements Conclusion

The LCP directs that the uses at this Highway One fronting site be small scale visitor serving commercial. As proposed by the Applicant, the range of uses here would be generally consistent with this directive other than the residential uses proposed and the lack of specificity for the food processing/warehousing component. The residential uses are palatable since the overall project would be a substantial visitor-serving enhancement and since at least the caretaker's quarters would be adjunct to the visitor-serving uses on site. The food manufacturing/warehousing uses are appropriate at this sensitive location only to the extent that they are linked either to the site and/or the general Davenport environs. In this way, these uses can be considered small scale cottage industries contributing to the special Davenport community character. Parking can be provided for all interior uses in the lower portion of the site. To ensure that this is the case, the project must be modified to identify the appropriate types of uses approved in this case and to ensure that these uses are not altered without Commission approval in the future. See Exhibit K and Special Conditions 1 and 4.

C. Public Access

²¹ The office parking requirement is calculated with the restaurant office as it is the only office shown on the proposed plans.



1. Applicable Policies

As described earlier, Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea “shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3.” Because this project is located seaward of the first through public road (Highway One), for public access and recreation issues the standard of review is both the certified LCP and the access and recreation policies of the Coastal Act.

A. Coastal Act Policies

Coastal Act Sections 30210 through 30214 and 30220 through 30224 specifically protect public access and recreation. In particular:

Section 30210: *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30211: *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30212(a): *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or,...*

Section 30212.5: *Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.*

Section 30213: *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred....*

Section 30214(a): *The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case...*

B. LCP Access Policies

Policy 7.6.2 Trail Easements. *Obtain trail easements by private donation of land, by public purchase, or by dedication of easements...*



Policy 7.7.1 Coastal Vistas. Encourage pedestrian enjoyment of ocean areas and beaches by the development of vista points and overlooks with benches and railings, and facilities for pedestrian access to the beaches...

Policy 7.7.15 Areas Designated for Primary Public Access. The following are designated as primary public access, subject to policy 7.6.2: North Coast...Davenport bluff, Davenport Beach...

Policy 7.7.16 Improvements at Primary Access Points. Provide, encourage provision of, and/or require as a condition of new development approval, subject to Policy 7.6.2, the following improvements at primary destinations: path improvements and maintenance;...automobile parking;...bicycle parking;...access provisions for disabled if feasible;...scenic overlooks;...and identification signs.

Policy 7.7.10 Protecting Existing Beach Access. Protect existing pedestrian...access to all beaches to which the public has a right of access, whether acquired by grant or through use, as established through judicial determination of prescriptive rights.... Protect such beach access through permit conditions such as easement dedication...

Policy 7.7.11 Vertical Access. Determine whether new development may decrease or otherwise adversely affect the availability of public access, if any, to beaches and/or increases the recreational demand. If such impact will occur, the County will obtain as a condition of new development approval, dedication of vertical access easements adequate to accommodate the intended use, as well as existing access patterns, if adverse environmental impacts and use conflicts can be mitigated, under the following conditions: (a) Outside the Urban Services Line: to pocket beaches if there is not other dedicated vertical access; ...; to bluffs which are large enough and of a physical character to accommodate safety improvements and provide room for public use as a vista point.

Policy 7.7.12 Lateral Access. Determine whether new development would interfere with or otherwise adversely affect public lateral access along beaches. If such impact will occur, the County will obtain...dedication of lateral access along bluff tops where pedestrian and/or bicycle trails can be provided and where environmental and use conflict issues can be mitigated. Unrestricted lateral access to North Coast beaches shall be provided where environmental and public safety concerns can be mitigated...

Section 15.01.060(b) Trail and Beach Access Dedication. As a condition of approval for any permit for a residential, commercial, or industrial project, an owner shall be required to dedicate an easement for trail or beach access if necessary to implement the General Plan or the Local Coastal Program Land Use Plan.

Section 15.01.070(b)(1)...Public Access Standards, Trails. Where dedication is required for public access, the following minimum requirements shall apply:

- (i) Shoreline access easements shall be a minimum of five feet wide.



(ii) Easements along proposed trail corridors or adopted trail corridors of for blufftop lateral access shall be a minimum of ten feet wide.

Section 13.11.074(a)(2) Standards for Pedestrian Travel Paths. *(i) On-site pedestrian pathways shall be provided from street, sidewalk and parking areas to the central use area. These areas should be delineated from the parking areas by walkways, landscaping, changes in paving materials, narrowing of roadways, or other techniques.*

Policy 3.10.1 Pathways. *Require pathways for pedestrian and bicycle use through cul-de-sac and loop streets where such access will encourage these modes of travel as part of new development.*

Policy 3.10.4 Pedestrian Traffic. *Require dedication and construction of walkways for through pedestrian traffic and internal pedestrian circulation in new developments where appropriate.*

Policy 3.10.5 Access. *Ensure safe and convenient pedestrian access to the transit system, where applicable in new developments.*

Policy 3.10.7 Parking Lot Design. *Provide for pedestrian movement in the design of parking areas.*

C. Priority Sites

LCP Figure 2-5 identifies the parcels immediately north of the subject site on the seaward side of the Highway as “Coastal Priority Sites – North Coast” (APNs 058-072-01,02,03). These adjacent parcels are subject to the following special development standards:

LCP Figure 2-5. *Depress and landscape the parking area to limit its visibility from Highway One and to maintain unobstructed coastal views. Allow landscaping only with ground cover and low growing vegetation which can not grow to a height that will obstruct coastal views. Eliminate all roadside parking along the property frontage, and provide interior pedestrian circulation to separate pedestrians from Highway One.*

These LCP priority sites are also subject to the following circulation and public access requirements:

LCP Figure 2-5. *Coordinate improvements with the parking on parcel 058-121-04...*

Section 13.11.072(a)(2)(i) Site Design, Coordinated Development. *Coordinated site design (including shared parking and circulation systems...) shall be encouraged on adjacent parcels with similar uses. In such cases, mutual access easements granted to each property owner are necessary. Site plans which allow for future shared use between adjacent parcels are encouraged...*

2. Consistency with Applicable Policies



A. Proposed Public Access Amenities

The Applicant's project description includes a *Public Access Amenities and Access Management Plan* (Access Plan) as part of the proposed project that includes a variety of public trails and other access amenities. Among other things, this Plan includes: (1) proposed dedication, construction, and maintenance of vertical access trails at three locations and a lateral access trail across the bluff top; (2) construction of a stairway from the bluff top to the railway elevation; (3) dedication of the southern riparian area as protected open space and habitat; and (4) vista points and viewing benches on the upper bluff. The Access Plan also provides for signage of public access. Trail access would be available 24 hours a day. See Exhibit E.

B. Public Access Trails and Parking Background

Historically, the Applicant's project site has been at the center of multiple public activities along the Davenport shoreline. As summarized in the Applicant's Access Plan, "[t]he public...uses the northern portion of [the] property for access parking, viewing, beach access and as overflow parking for the businesses on the inland side of Highway One" (Access Plan p. 2). Moreover, the open, grassy upper blufftop area located between the informal parking area and the existing building immediately adjacent is frequently traversed by pedestrians who want to enjoy the scenic coastal views and other related activities. Further, there is a network of informal trails heading from locations along Highway One out to the bluffs and down to Davenport beach. Some of these trails emanate from in and around the Applicant's property, including trails from the informal parking located at the northwestern end of the project down the bluff to the railroad tracks below (see Exhibits A and B); and a vertical trail at the southeastern end of the project site from Highway One to the other side of the project site and on to the beach. Informal access in some areas has been persistent enough to create erosion problems on the project site, prompting the County to observe that it was desirable to consolidate the several existing trails down the bank from the Applicant's upper bluff site, with one formalized stairway in order to minimize erosion (which could become more severe with more intensive site use, including the proposed formal parking area on the upper bluff), as shown on the Applicant's plans.²²

The informal trail network surrounding the Applicant's property is confirmed by aerial photo analysis as well as the Commission Staff experience with available public access in the Davenport area. Davenport is known for its whale watching opportunities, including vantage points from the Applicant's project site. A number of Davenport and Santa Cruz County residents have provided numerous informal accounts to Commission staff of accessing this site over the last several decades.

In addition, as already suggested, the northern end of the Applicant's property has been used for parking since at least the late 1960s. Again, although regular counts are not available, site inspections and review of aerial photos reveals an informal dirt parking lot on the northern end of the property (aerial photos in

²² Specifically, the County found: "To solve the erosion problem and provide a second trail access to the beach, the project has been conditioned to require that the applicant construct a stairway down the steep slope to replace the four damaged trail routes. The condition includes placing the stairway and a connecting trail under a permanent pedestrian easement as well as a route that connect the stairway to Highway 1 so that complete pedestrian access is provided from Highway 1 to the beach without causing erosion problems on the steep slope."



Commission files dated 1967, 1978, 1987, 1990, 1993). Members of the public have indicated, and staff has likewise observed, that somewhere between three and ten cars parked on the upper bluff is common, although some of this parking may be occurring on the Lone Star property immediately to the north of the project site, which is also used by the public. Similarly, the Applicant's traffic consultants stated that on Tuesday October 1, 1997 and Saturday September 28, 1996 (both clear and sunny days) they "observed no more than 10 parked vehicles in this parking area at any time although the parking area has the capacity to store more than 10 vehicles." Close examination of an aerial photograph taken in 1993 reveals at least 25 vehicles parked in the combined informal parking areas (Applicant's lot and adjacent Lone Star lot) (see Exhibit A, p. 5). Finally, the Davenport Beach and Bluffs Addendum to the General Plan for the North Coast Beaches estimates that up to 40 vehicles park in the combined area during the summer weekends. In combination with the informal parking just to the north of the project site, the area that is void of vegetation and thus has been most used for regular parking would hold between 20 and 40 cars. Although it appears that the public has continuously parked in this area without restriction, the Applicant has stated that this use is by permission, that the site has been posted to this effect, and that the area has been closed to public use for a least one day per year (Access Plan, p. 2).

Originally, the County-approved project included two vertical trails from the Highway across the project site and one connecting trail along the railroad tracks. Specifically, the County's approval required the dedication of a permanent pedestrian easement: (1) over the trail south of the building;²³ (2) over the trail route from the proposed northern parking lot; and (3) over an area paralleling the railroad tracks along their seaward side. The approval also required construction of an access stairway from the parking lot down the railroad bluff cut to the railroad right of way thence southeasterly to join the southern beach access trail.

C. Public Access Impacts²⁴

The public access component of the project proposed by the Applicant is partially consistent with Coastal Act and LCP policies that require the maximization and protection of public access (including the dedication of vertical and lateral access, provision of vista points and other amenities). The proposed access features would include vertical and partial lateral access to connecting publicly used trails that head both to the beach and out to the open bluff just to the west of the project site (see Exhibit E). Public benches, stairs, and viewing areas would be provided. In particular, the proposed three vertical public access dedication areas implement the requirements of Coastal Act Sections 30210, 30211, and 30212, and LCP Policy 7.7.11 with regards to providing public access to the shoreline. The Applicant is commended for proposing such vertical access dedications, as well as for proposing to construct and

²³ This trail already exists and provides a key link for accessing Davenport Beach from Highway One. A previous County permit requirement (County permit 74-124-U, condition #6) for this site required permanent, unobstructed public access. However, that condition did not actually require a recorded dedication and that earlier permit will be superseded by this new permit. Therefore the County required a legal dedication pursuant to the cited access provisions, specifically mentioning policy 7.7.15 in its findings and concluding, "the project has been conditioned to require that a permanent pedestrian easement be placed over this trail to ensure that public access along the trail continues in perpetuity."

²⁴ Public view access impacts are not discussed in this finding; these substantial impacts are detailed in the previous visual and community character findings.



maintain the trails and the stairway. Special conditions specifying the parameters for these vertical dedications are included solely to implement these parts of the proposed project consistent with the Commission's protocol for such legal documents. See Special Condition 2. Likewise, to recognize the Applicant's stated intention to construct and maintain the trails and stairway in the easement areas, this approval includes recognition of these project elements (see Special Condition 4)

However, notwithstanding the many positive public access elements of the proposed project, the project as proposed also: impacts lateral access, precludes public parking in an area historically used by the public to park, precludes connectivity to upcoast priority coastal access sites, may be used as evidence that public rights have been adjudicated, and generally increases the intensity of use of public recreational resources.²⁵

Public Parking

As detailed in the previous visual and community character findings, the proposed formal parking lot, lateral pathway system, and fencing cannot be constructed in the upper blufftop portion of the site.²⁶ Because of this, the existing informal parking area used by the general public on the extreme northwest portion of the property will remain and its current use characteristics would be unchanged. Absent the formal upper parking lot, the Applicant has not otherwise proposed any limitations on continued public use of this existing informal parking area. As such, and only as conditioned to leave the upper bluff area alone, the project is consistent with the LCP and Coastal Act policies protecting ongoing public parking here. However, had this existing informal parking area been removed as proposed by the Applicant, then the project would have been wholly inconsistent with protecting this existing public access area from interference as directed by the LCP and Coastal Act policies cited in this finding and could not have been approved.

In any case, there continues to be parking available on the adjacent Caltrans right-of-way and the adjacent lot (the Applicant's land only contains about one-third of the this informal parking area), and the County is in the process of studying this issue. In approving this permit for a modified project, the Commission recognizes that there is a need for continued and improved public parking in the Davenport area. In addition to public parking provisions being built into specific project reviews, the current Davenport Town Planning exercise under the official auspices of the Board of Supervisors needs to be completed. In particular, there should be a focus on reexamining the General Plan for the North Coast Beaches' proposals together with other possible parking strategies, including the use of areas across the railroad tracks where automobiles might be better hidden. A future coastal permit could revisit the issue of parking for this particular site.

Lateral Access

Evidence of informal trails show that public lateral access in this stretch of coast is primarily along the railroad tracks located on the southern edge of the Applicant's property. Coastal visitors generally park at the subject site (and/or just upcoast) or inland of the Highway and are funneled by the topography along

²⁵ The proposed project also blocks and degrades the public view.

²⁶ See previous visual and community character findings.



the railroad track cut to downcoast locations and Davenport Beach. Highway One is not equipped with sidewalks in Davenport and the shoulder area is much too dangerous for pedestrians because of the proximity to fast moving vehicular traffic.²⁷ The Applicant's screening hedge located along the Highway within the Highway right-of-way exacerbates shoulder-oriented pedestrian access problems.

As proposed, and as so far conditioned to allow lesser setbacks from the Highway than required (i.e., 10 feet for the building and 4 feet for the lower parking area), lateral access is blocked by the proposed project. This is because the Applicant's proposed project, as conditioned to allow setback variances, would be roughly 20 feet closer to the Highway right-of-way than is allowed by the LCP for such an SU-zoned site with the proposed mix of uses. Moving the project closer to the Highway correspondingly moves required screening vegetation toward and into the right-of-way, blocking any lateral access along the Highway. In addition to this ongoing blockage, should the full right-of-way be needed in the future for enhanced public use, these screening elements would be displaced. Available space within which to replicate such screening is limited. Not only would pedestrian access be impacted in this scenario, visual public access would also be negatively impacted.

The Coastal Act and LCP require such lateral access to be preserved (Coastal Act Sections including 30210, 30211, 30213 and LCP Policies including 7.7.10 and 7.7.12). Although the Applicants have proposed a partial lateral easement along the upper bluff to the proposed stairway, there is no equivalent lateral trail dedication adjacent to the railroad tracks that would laterally connect the vertical trails that lead to the seaward edge of the project site. To address this lateral blockage, Santa Cruz County required a lateral dedication along the full length of the property along the railway track. The Applicant now indicates that the County-required easement is not possible because of conflicts with the Applicant's existing easement with Union Pacific Railroad; however, no evidence of that easement being unilaterally exclusive of any other use easement has been submitted.

However, the other option of ensuring lateral pedestrian access rights through a combination of using the Applicant's proposed upper bluff lateral easement and using the Highway One right-of-way is made difficult by the topography and is virtually precluded by the encroachment of the building and lower parking lot into the setback area (via variance) and the corresponding use of the Highway One right-of-way for mitigating screening vegetation. The danger of commingling pedestrians and fast-moving vehicles under this option cannot be easily mitigated either. The most LCP and Coastal Act consistent manner of protecting existing lateral access and maximizing safe public access opportunities here is to acknowledge the existing use patterns and to provide an equivalent lateral connection on the seaward side of the property along the railway tracks as previously required by the County. This both takes the place of the Applicant's proposed upper blufftop lateral easement and mitigates for the lateral access blockage along the Highway due to screening vegetation there. Thus, unless such dedication is absolutely precluded by the existing railroad easement, this approval is conditioned for a lateral dedication along the southern property line. The Applicant's proposed upper blufftop partial lateral easement is rendered moot by this replacement easement and is thus not necessary. (see Special Condition 2).

²⁷ The speed limit along Highway One in Davenport is 45 miles per hour.



Adjacent LCP Priority Sites

The LCP reserves the parcels directly north (upcoast) of the Applicant's site (i.e., immediately upcoast of the informal parking area currently present on the northwest corner of the Applicant's site) as priority sites (APNs 058-072-01,02,03). These adjacent parcels are protected for "coastal access, overlook, parking and supporting facilities and improvements." The North Coast Beaches Unified Plan, which is contained in the County General Plan also discusses this property adjacent to the subject site. The Enhancement Plan for Davenport Bluffs shows a 23 to 26 space unpaved parking lot directly adjacent to the proposed upper terrace parking lot. Also shown is a loop trail (along the edge of the bluff and along the railroad tracks) on the property seaward of the subject site.

In the event that the priority sites develop as envisioned by the LCP with parking, the LCP dictates that said parking should be coordinated with existing parking on the Applicant's site (LCP Figure 2-5). The Applicant's Access Plan proposes such a general public connection (Access Plan, page 4). In any case, since the informal parking area spanning a small portion of the Applicant's site and a larger portion of this upcoast area would not be altered by this approval (since development in the upper portion of the lot has been removed from the project by condition to address visual and character concerns), any future connection to the priority sites would not be affected by the approved project. Had the Applicant's proposed formal upper parking lot and parking lot entrance not been removed from the project by condition, however, LCP consistency would have required some more formal means to implement this connection as proposed by the Applicant (but not fully explained) and required by the LCP. A future coastal permit could revisit the issue of parking in the existing informal area and its potential connection to upcoast parking areas, but it is not now an issue given the conditions of this approval.

Increased intensity of Use

The new proposed mixed use project would bring increased intensity of commercial and visitor-serving use of the bluff area and public beach resources, particularly Davenport beach, as well as the informal trail network that has developed in the project vicinity. As described earlier, peak use periods of the Applicant's revised proposed project could be expected to regularly bring up to 42 automobiles and their occupants into the development. Thus, the increased impacts on public resources at and near the site would be substantial, particularly when considered over time, even if only some of the visitors associated with these cars take advantage of the trails leading out to the bluff and down to the beach. The Access Plan addresses this generally by providing additional public amenities. As has been described in this public access finding thus far, however, some clarification is necessary in terms of lateral access (see above). This lateral access clarification can also help ensure that the increased intensity of use and associated future impacts to public beach resources that will inevitable follow this new development will not unduly impact lateral public access here (see Special Condition 2).

Likewise, the increase in use of the lower parking area may negatively impact Highway One circulation patterns. The current speed of vehicles and the use of the Highway One right-of-way for general pedestrian use already makes Highway-area safety an issue in Davenport. It is possible that Caltrans may require a left turn lane and/or a right turn collector lane to serve the proposed development and ensure safe circulation though Davenport. As such, this approval is conditioned for Caltrans review (see Special Condition 1; see also Exhibit I for a Caltrans letter on the project).



Public Rights

Finally, given the evidence of informal public use of the Applicant's site for parking, viewing, and access, and the fact that the full analysis necessary to establish public rights that may exist has not been completed, and the fact that any public rights established on the subject property have not been adjudicated, the permit is conditioned to make clear that this approval does not constitute a waiver of any public rights that may exist on the property (see Special Condition 8).

3. Public Access Conclusion

Protecting and maximizing public access is a main tenet of both the Coastal Act and the LCP. The project, as proposed, would block lateral access along the site, would preclude public parking in an area historically used by the public to park, would preclude connectivity to upcoast priority coastal access sites, could be used as evidence that public rights have been adjudicated here, and would generally increase the intensity of use of public recreational resources. The project, as proposed, would also have significant negative impacts to the public viewshed and Davenport's community character. Because of this, the proposed upper parking lot, trail system, and fencing must be removed from the project.²⁸ As a result, the issues of protecting the existing public use of the informal parking area on the northwest portion of the site, and of protecting connectivity to the upcoast LCP priority sites become moot. The increased intensity of use and the blockage of lateral access by the project up and down coast dictate that a lateral easement along the railroad tracks be provided to protect existing lateral connectivity along this stretch of coast (see Special Condition 2). In addition, all public rights of access must be protected (see Special Condition 8). Caltrans review and approval of circulation patterns is necessary (see Special Condition 1). Finally, all access amenities within the easement areas (e.g., trails and stairways) must be maintained so that the formalized public access benefit is realized (see Special Condition 4). Only in this way does the project protect and adequately maximize public access at this critical site located between the first public road and: the sea, Davenport Beach, and its whale watching bluffs; public access features of statewide importance. As such, and only as conditioned, the project is consistent with the Coastal Act and LCP public access policies cited in this finding.

D. Public Services: Sewer and Water

1. Applicable LCP Policies

The LCP states:

Policy 2.1.4 Siting of New Development. *Locate new residential, commercial, or industrial development, within, next to, or in close proximity to existing developed areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on environmental and natural resources, including coastal resources.*

Policy 2.2.2 Public Infrastructure (Facility and Service) Standards for General Plan and

²⁸ See previous visual and community character findings.



Local Coastal Program Amendments and Rezonings. For all...rezonings that would result in an intensification of...land use, consider the adequacy of the following services, in addition to those services required by policy 2.2.1 [water, sewer, etc.] when making findings for approval. Allow intensification of land use only in those areas where all service levels are adequate, or where adequate services will be provided concurrent with development...

Policy 2.2.3 Reservation of Public Works Capacities for Coastal Priority Uses. In the Coastal Zone, reserve capacity in existing or planned public works facilities for Coastal Priority Uses. For a description of those uses, see sections 2.22 and 2.23.

Policy 2.22.1 Priority of Uses Within the Coastal Zone. Maintain a hierarchy of land use priorities within the Coastal Zone: First Priority: Agriculture and coastal-dependent industry; Second Priority: Recreation, including parks; visitor serving commercial uses; and coastal recreation facilities; Third Priority: Private residential, general industrial, and general commercial uses.

Policy 5.6.1 Minimum Stream Flows for Anadromous Fish Runs. Pending a determination based on a biologic assessment, preserve perennial stream flows at 95% of normal levels during summer months, and at 70% of the normal winter baseflow levels. Oppose new water rights applications and time extensions, change petitions, or transfer of existing water rights which would individually diminish or cumulatively contribute to the diminishment of the instream flows necessary to maintain anadromous fish runs and riparian vegetation below the 95%/70% standard.

Policy 5.6.2 Designation of Critical Water Supply Streams. Designate the following streams, currently utilized at full capacity, as Critical Water Supply Streams: Laguna, Majors, Liddell, San Vicente, Mill, and Reggiardo Creeks;... Oppose or prohibit as legal authority allows, new or expanded water diversion from Critical Water Supply Streams. Prohibit new riparian or off stream development or increases in the intensity of use, which require an increase in water diversions from Critical Water Supply Streams. Seek to restore in-stream flows where full allocation may harm the full range of beneficial uses.

Program 5.6(g) Maintaining Adequate Streamflows Program. Develop more detailed information on streamflow characteristics, water use, sediment transport, plant and soil moisture requirements, and habitat needs of Critical Water Supply Streams and streams located in the coastal zone. Use this information to formulate a more detailed strategy for maintenance and enhancement of streamflows on Critical Water Supply Streams and to better understand the role of streamflows in watershed ecosystems and provide a basis for cooperative management of watershed ecosystems.

Objective 7.18b Water Supply Limitations. To ensure that the level of development permitted is supportable within the limits of the County's available water supplies and within the constraints of community-wide goals for environmental quality.



Policy 7.18.1 Linking Growth to Water Supplies. *Coordinate with all water purveyors and water management agencies to ensure that land use and growth management decisions are linked directly to the availability of adequate, sustainable public and private water supplies.*

Policy 7.18.2 Written Commitments Confirming Water Service Required for Permits. *Concurrent with project application require a written commitment from the water purveyor that verifies the capability of the system to serve the proposed development. Projects shall not be approved in areas that do not have a proven, adequate water supply. A written commitment is a letter from the purveyor guaranteeing that the required level of service for the project will be available prior to the issuance of building permits,.... The County decision making body shall not approve any development project unless it determines that such project has adequate water supply available.*

Policy 7.18.3 Impacts of New Development on Water Purveyors. *Review all new development proposals to assess impacts on municipal water systems, County water districts, or small water systems. Require that either adequate service is available or that the proposed development provide for mitigation of its impacts as a condition of project approval.*

Policy 7.19.1 Sewer Service to New Development. *Concurrent with project application, require a written commitment from the service district. A written commitment is a letter, with appropriate conditions, from the service district guaranteeing that the required level of service for the project will be available prior to issuance of building permits, The County decision making body shall not approve any development project unless it determines that such project has adequate sewage treatment plant capacity.*

Policy 7.20.1 Community Sewage Disposal Systems, Within the Rural Services Line. *...Community sewage disposal systems ...shall be sized to serve only the buildout densities for lands within the Rural Services Line.*

2. Consistency with Applicable LCP Policies

The project site is served by the Davenport Water and Sanitation District (DWSD) which is managed by the Santa Cruz County Public Works Department.

A. Wastewater

Although the Applicant has modified the project since, the County-approved project would have increased wastewater coming from the site to 4,792 gallons per day (gpd) corresponding to an 8% increase in total wastewater flow in the DWSD. It is not clear to what extent the Applicant's current proposed project (different than that approved by the County) would alter the amount of wastewater here. The County permit file indicates that the property owners previously paid a sewer service connection fee for 1,405 gpd (prior to that time the parcel utilized an on-site septic system). The DWSD issued a written commitment to serve the project and required a wastewater connection fee of \$43,038 based on the increased wastewater flows and the commensurate need to upgrade the wastewater system to handle the increased flow.



The County's approval also allows for building permits for the project to be issued without the service improvements being completed. Instead, the County's approval postponed project occupancy until the wastewater system upgrade is completed. As such, there is not a clear guarantee that the required level of service for the project would be in place prior to issuance of the building permit (as required by LCP policy 7.19.1). The basis for the LCP policy 7.19.1 restriction is that once buildings are completed, there is pressure to actually allow occupancy whether or not service upgrades have been completed. In this case, the systems and connections are in place and there are no moratoria in effect. Therefore, the permit condition could easily be amended to allow occupancy and its attendant increase in wastewater generation without the necessary upgrades.

Wastewater capacity problems in Davenport in previous years (due to old collection lines into which excess water infiltrates) have led to raw wastewater discharges into the Pacific Ocean. Therefore, any increase in flows, even the previously estimated eight percent from this project, is significant until the system is upgraded. Although DWSD has secured the necessary funding for the sewer replacement project, it is not clear when the upgrades will be complete.

In any case, to ensure LCP policy 7.19.1 consistency, the Applicants will need an updated service commitment letter for any amount of wastewater to be generated above the 1,405 gpd prior to the issuance of building permits. See Special Condition 5.

B. Water

The County-approved project would increase average daily water consumption at the site from approximately 2,300 gpd to 5,293 gpd. It is not clear to what extent the Applicant's current proposed project (different than that approved by the County) would alter the amount of water use here. Based on the range of uses now proposed, it is fair to say that a similar increase in water use would still be expected here. When the juice plant was in operation in the late 1980's and early 1990's, average daily water use was in the range of 10,000 gpd. Therefore, the project would result in more water use than recently, but much less than in the previous period. According to the County permit file, the owners actually have paid for a water connection, and have a legal entitlement, for 4,216 gpd. As with wastewater, DWSD issued a written commitment to serve water to the project but again noted that limited capacity was available absent needed system upgrades.

Specifically, the water system suffers from limited water filter capacity at the water treatment plant, meaning customers may not be receiving adequately treated drinking water. Therefore, the Applicants had discussions with County officials and negotiated an agreement which would allow their project to go forward. In this case, rather than require a fee, the County required the applicants to actually install the water system improvements. As with wastewater, the County conditioned the permit for the proposed project in a way that allows the building permits to be issued and ties project occupancy to water system improvement completion (County Condition IV.B). As such, there is not a clear guarantee that the required level of service for the project would be in place prior to issuance of the building permit (as required by LCP Policy 7.18.2).

DWSD gets its water from Lone Star Industries, whose sources of water are San Vicente Creek and the



tributary Mill Creek. While Lone Star has a riparian right, DWSD lacks an appropriate right for the water it diverts. Although there is no stream flow information in the County permit record, USGS has calculated average annual runoff in the San Vicente watershed at 6,800 acre-feet per year. LCP Policy 5.6.2 (written in the early 1980's before the juice plant was in operation) designates San Vicente and Mill Creeks as "currently utilized at full capacity." Since that policy was written, the coho salmon and the California red-legged frog, which inhabit the creek, have been federally listed as "threatened," and the California Fish and Game Commission has designated San Vicente Creek as an endangered coho salmon spawning stream.

Whether continued and increased water withdrawals will adversely impact the San Vicente Creek habitat and what mitigation measures might need to be taken is unclear. Further uncertainty is added to the overall water picture by the fact that the residential uses in the system are not metered. There is little in the County permit record nor is there a San Vicente Creek watershed or stream management plan in place to address these issues. Furthermore, DWSD must still perfect its water rights. These actions, which are not under the responsibility of the Applicants, will be the appropriate junctures to address LCP policies regarding the protection of in-stream flows and the associated riparian habitats. In any event, with regard to the project before the Commission, CDFG has indicated that "project-related water demand will have insignificant effects on stream flow and instream coho habitat conditions" (see Exhibit H).

For this application, the County's permit condition requires the applicant to provide necessary improvements to the water system in order to add approximately 3,000 gallons to the current 2,300 gallons per day of water use. It is uncertain whether or not this increase in water use will result in an increased stream diversion because the amount of water that the District is agreeing to provide represents an actual decrease in the amount of water previously supplied to this site when the building housed the juice plant. It is possible that as part of the District's obtaining the necessary water rights and addressing endangered stream habitat, additional system improvements may be necessary beyond upgrading the filters. For the Applicants, however, the LCP requirement is to have a written commitment to serve prior to the issuance of building permits; the project as approved by the County does not contain this assurance. Again, the policy rationale being that once buildings are completed, there is pressure to actually allow occupancy whether or not service upgrades have been completed. Thus, to ensure LCP policy 7.18.2 consistency, the Applicants will need an updated service commitment letter guaranteeing that the required level of water service for the project will be available prior to the issuance of building permits. See Special Condition 5.

As so conditioned, the project is consistent with the relevant local coastal program policies discussed in this finding.

E. Polluted Runoff

1. Applicable LCP Policies

The LCP states:

Policy 5.4.14 Water Pollution from Urban Runoff. Review proposed development projects for their potential to contribute to water pollution via increased storm water runoff. Utilize erosion



control measures, on-site detention and other appropriate storm water best management practices to reduce pollution from urban runoff.

Policy 5.7.4 Control Surface Runoff. *New development shall minimize the discharge of pollutants into surface water drainage by providing the following improvements or similar methods which provide equal or greater runoff control: (a) include curbs and gutters on arterials, collectors and locals consistent with urban street designs; and (b) oil, grease and silt traps for parking lots, land divisions or commercial and industrial development.*

Policy 5.7.5 Protecting Riparian Corridors and Coastal Lagoons. *Require drainage facilities, including curbs and gutters in urban areas, as needed to protect water quality for all new development within 1000 feet of riparian corridors or coastal lagoons.*

Policy 7.23.1 New Development. *...Require runoff levels to be maintained at predevelopment rates for a minimum design storm as determined by Public Works Design Criteria to reduce downstream flood hazards and analyze potential flood overflow problems. Require on-site retention and percolation of increased runoff from new development in Water Supply Watersheds and Primary Groundwater Recharge Areas, and in other areas as feasible.*

Policy 7.23.2 Minimizing Impervious Surfaces. *Require new development to limit coverage of lots by parking areas and other impervious surfaces, in order to minimize the amount of post-development surface runoff.*

Policy 7.23.5 Control Surface Runoff. *Require new development to minimize the discharge of pollutants into surface water drainage by providing the following improvements or similar methods which provide equal or greater runoff control:...(b) construct oil, grease and silt traps from parking lots, land divisions or commercial and industrial development. Condition development project approvals to provide ongoing maintenance of oil, grease and silt traps.*

2. Consistency with Applicable LCP Policies

The Applicant's proposed project would result in approximately 11,000 square feet of impervious surfacing for the proposed upper parking lot and access driveway, and roughly 10,000 square feet for the lower parking lot area; a total of over 21,000 square feet or roughly ½ acre of parking lot. In any event, the County conditioned the project for a grading, drainage and erosion control plan; silt and grease traps for all parking area catch basins; and a long-term monitoring and maintenance program for the silt and grease trap filtering mechanisms; all general plan requirements. On-site runoff would be channeled into the existing stormwater pipe that extends under the railroad tracks and discharges into an existing drainage swale on the ocean side of the tracks. Rip-rap would be placed at the outfall as an energy dissipater.

Notwithstanding visual and community character issues discussed in previous findings, the County's conditions analyzed in isolation would seem to adequately address nonpoint source polluted runoff concerns. Any construction-related runoff pollutants (e.g., sediments, petroleum hydrocarbons, trash and debris, etc.) would be controlled through the required grading, drainage and erosion control plan. Post-



construction site runoff would be collected and filtered for urban pollutants prior to discharge from the site through the existing culvert. However, LCP Policy 7.23.2 also calls for minimizing impervious surfaces. Moreover, as previously detailed, there are also critical visual and special community resource problems with allowing the proposed upper blufftop parking lot.

The primary mechanism for minimizing impervious surfaces and reducing parking lot-related polluted runoff is to reduce the size of parking areas to the minimum necessary. As parking lot size is reduced to eliminate unnecessary paved area, the amount of area exposed to vehicular pollutants as well as the amount of time such vehicle are in such areas, likewise drops and there is a corresponding reduction in the amount of automobile by-products contributing to polluted runoff (e.g., petroleum hydrocarbons, heavy metals such as lead, copper, zinc and cadmium, etc.). With less pollutants and less impervious area for them to collect upon, there is a reduction in polluted runoff ultimately flushed off site. This is the case whether or not silt and grease traps are in use given that the filtering ability of these units can vary (dependent upon flows and levels of contaminants).

A second way of reducing impervious surfacing for parking areas is through the use of porous/permeable surface treatment materials (such as turf block, pavers, cobbles, etc.) which allow for some runoff infiltration. However, these types of treatments are generally reserved for less frequently used parking areas (such as emergency access roads and parking overflow areas) where heavy use and loads are not anticipated. Moreover, these types of treatments are not generally recommended for primary parking areas because automobile-related polluted runoff constituents can then percolate directly into soils (thence into groundwater seeps and ultimately to the ocean). In this case, any parking area would be a primary parking lot area subject to heavy levels of use. As such, polluted runoff concerns can best be addressed through engineered filtration systems such as required by the County.

Ultimately, a smaller area of the site given over to parking lot use would serve to better address both previously identified visual and special community resource concerns, as well as LCP impervious surface and polluted runoff concerns. By eliminating the upper parking lot area and its attendant driveway and relocating necessary parking to the lower level, nearly 8,000 square feet of impervious surface parking lot can be eliminated from that proposed by the Applicant; the lower parking lot would occupy a total of roughly 13,300 square feet. In other words, there are complementary LCP policies at play that redefine the project to provide all parking on the lower level. The filtering and treatment mechanisms proposed by the Applicant will ensure that site runoff is adequately cleansed prior to discharge from the site. CDFG has concurred that such runoff would not likely cause any significant detrimental water quality impacts (see Exhibit H). As so conditioned for removal of the upper parking lot and for providing all parking in the lower level, the LCP polluted runoff policies cited in this finding are met.

F. Biological Resources



1. Applicable LCP Policies

The LCP is very protective of riparian corridors, wetlands and other environmentally sensitive habitat areas. LCP wetland and wildlife protection policies include Policies 5.1 et seq (Biological Diversity) and 5.2 et seq (Riparian Corridors and Wetlands), and Chapters 16.30 (Riparian Corridor and Wetlands Protection) and 16.32 (Sensitive Habitat Protection). The LCP states:

Section 16.32.090(b)(2) Approval Conditions. The following conditions shall be applied to all development within any sensitive habitat area: Dedication of an open space or conservation easement or equivalent measure shall be required as necessary to protect the portion of a sensitive habitat which is undisturbed by the proposed development activity or to protect a sensitive habitat on an adjacent parcel.

2. Consistency with Applicable LCP Policies

To the southeast of the existing building, on the downcoast portion of the property, is the San Vicente Creek riparian area. Most of this area is designated on the land use plan as “Existing Parks and Recreation” and is zoned “Parks, Recreation and Open Space.” No development has been proposed in this area. CDFG has concluded that the project will not impact this resource (see Exhibit H for CDFG’s August 23, 1999 letter on the subject).

The Applicant’s revised project proposal includes a open space and habitat dedication over this riparian area. Such a dedication is consistent with the LCP’s riparian corridor dedication requirements (LCP Section 16.32.090(b)(2)). The Applicant is commended for proposing such protection of this riparian habitat area. Special conditions specifying the parameters for this riparian dedications are included solely to implement this part of the proposed project consistent with the Commission’s protocol for such legal documents. See Special Condition 3. As so conditioned, the Commission finds that the project is consistent with the relevant local coastal program biological policies cited in this finding.

G. Archaeological Resources

1. Applicable LCP Policies

The LCP states:

Objective 5.19 Archaeological Resources. *To protect and preserve archaeological resources for their scientific, educational and cultural values, and for their value as local heritage.*

Policy 5.19.2 Site Surveys. *Require an archaeological site survey as part of the environmental review process for all projects with very high site potential as determined by the inventory of archaeological sites, within the Archaeological Sensitive Areas, as designed on General Plan and LCP Resources and Constraints Maps filed in the Planning Department.*

Policy 5.19.4 Archaeological Evaluations. *Require the applicant for development proposals on any archaeological site to provide an evaluation, by a certified archaeologist, of the*



significance of the resource and what protective measures are necessary to achieve General Plan and LCP Land Use Plan objectives and policies.

In addition, County Code Chapter 16.40 has detailed provisions to protect "Native American Cultural Sites."

2. Consistency with Applicable LCP Policies

Two separate archaeological reconnaissances conducted on the subject site (one by County Planning staff in June 1997 and a second by Archaeological Consulting, Inc. in July 1997) failed to identify evidence of archaeological resources. Consistent with LCP requirements, the County's approval included a condition to stop work and undertake the appropriate archaeological mitigation if any artifact or other evidence of archaeological resources are discovered during site preparation, excavation, or other ground disturbance (see County Condition V.I). As conditioned to retain the essence of this County archaeological condition (see Special Condition 8), the Commission finds that the project is consistent with the relevant local coastal program archaeological policies.

H. Cumulative & Growth-Inducing Impacts

1. Applicable LCP Policies

The LCP states:

Policy 2.1.4 Siting of New Development. *Locate new residential, commercial or industrial development, within, next to, or in close proximity to existing developed areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on environmental and natural resources, including coastal resources.*

Policy 2.3.5 Areas Within the Rural Service Line. *Utilize a Rural Services Line (RSL) to recognize and delineate Davenport, Boulder Creek, ...as areas which exist outside the Urban Services Line but have services and densities of an urban nature....Allow infill development consistent with designated urban densities only where served by a community sewage disposal system....*

Policy 2.23.2 Designation of Priority Sites. *Reserve the sites listed in Figure 2-5 for coastal priority uses as indicated. Apply use designations, densities, development standards, access and circulation standards as indicated.*

Policy 2.23.3 Master Plan Requirements for Priority Sites. *Require a master plan for all priority sites. Where priority use sites include more than one parcel, the master plan for any portion shall address the issues of site utilization, circulation, infrastructure improvements, and landscaping, design and use compatibility for the remainder of the designated priority use site. The Master Plan shall be reviewed as part of the development permit approval for the priority site.*



LCP Figure 2-5 identifies the parcels immediately north of the subject site on the seaward side of the Highway as “Coastal Priority Sites – North Coast” (APNs 058-072-01,02,03). These adjacent parcels are subject to the following special development standards:

***LCP Figure 2-5.** Depress and landscape the parking area to limit its visibility from Highway One and to maintain unobstructed coastal views. Allow landscaping only with ground cover and low growing vegetation which can not grow to a height that will obstruct coastal views. Eliminate all roadside parking along the property frontage, and provide interior pedestrian circulation to separate pedestrians from Highway One.*

These LCP priority sites are also subject to the following circulation and public access requirements:

***LCP Figure 2-5.** Coordinate improvements with the parking on parcel 058-121-04...*

***Section 13.11.072(a)2(i) Site Design, Coordinated Development.** Coordinated site design (including shared parking and circulation systems...) shall be encouraged on adjacent parcels with similar uses. In such cases, mutual access easements granted to each property owner are necessary. Site plans which allow for future shared use between adjacent parcels are encouraged...*

2. Consistency with Applicable LCP Policies

Potential growth-inducing and cumulative impacts associated with the project, some of which may be realistic to expect, do not encompass new issues beyond those covered in the previous findings. Rather, these potential impacts serve to emphasize the previous conclusions with regard to visual impacts, small scale development in a special community, land use, public access, and public services. The primary potential cumulative and growth-inducing aspects of the project regard the adjacent undeveloped priority sites, and other development which is or may be proposed in and around Davenport.

A. Adjacent LCP Priority Sites

The LCP reserves the parcels directly north (upcoast) of the Applicant’s site (i.e., directly upcoast of the informal parking area currently present on the northwest corner of the Applicant’s site) as priority sites (APNs 058-072-01,02,03). These adjacent parcels are protected for “coastal access, overlook, parking and supporting facilities and improvements.” The North Coast Beaches Unified Plan, which is contained in the County General Plan also discusses this property adjacent to the subject site. The Enhancement Plan for Davenport Bluffs shows a 23 to 26 space unpaved parking lot directly adjacent to the proposed upper terrace parking lot. Also shown is a loop trail (along the edge of the bluff and along the railroad tracks) on the property seaward of the subject site.

Concerns have been raised that the proposed project may predispose the LCP priority sites for development. The North Coast Beaches Unified Plan, which is contained in the County General Plan also discusses this property adjacent to the subject site. The Enhancement Plan for Davenport Bluffs shows a 23 to 26 space unpaved parking lot directly adjacent to the proposed upper terrace parking lot. Also shown is a loop trail (along the edge of the bluff and along the railroad tracks) on the property seaward of



the subject site.

In the event that the priority sites develop as envisioned by the LCP with parking, the LCP dictates that said parking should be coordinated with existing parking on the Applicant's site (LCP Figure 2-5). The Applicant's Access Plan proposes such a general public connection (Access Plan, page 4). In any case, since the informal parking area spanning a small portion of the Applicant's site and a larger portion of this upcoast area would not be altered by this approval (since development in the upper portion of the lot has been removed from the project by condition to address visual and community character issues²⁹), any future connection to the priority sites would not be affected by the approved project. Had the Applicant's proposed formal upper parking lot and parking lot entrance not been removed from the project by condition, however, LCP consistency would have required some more formal means to implement this connection as proposed by the Applicant (but not fully explained) and required by the LCP. A future coastal permit could revisit the issue of parking in the existing informal area and its potential connection to upcoast parking areas, but it is not now an issue given the conditions of this approval.

In approving this permit for a modified project, the Commission recognizes that there is a need for continued and improved public parking in the Davenport area. The Commission likewise recognizes that potential future development of the adjacent LCP priority sites and the informal parking area on the subject site could, in the future, lead to adverse, cumulative visual impacts. Thus, in addition to public parking provisions being built into specific project reviews, the current Davenport Town Planning exercise under the official auspices of the Board of Supervisors needs to be completed. In particular, there should be a focus on reexamining the General Plan for the North Coast Beaches' proposals together with other possible parking strategies, including the use of areas across the railroad tracks where automobiles might be better hidden. A future coastal permit could revisit the issue of parking for this particular site.

B. Public Services

The County's approval, which allowed for building permits for the subject development to be issued before the water and sewer systems are upgraded to handle the resulting demands, would set an adverse precedent for future development proposals in the area. In fact, there are several projects on the inland side of Highway One which are within the planning process now, or may be proposed in the near future. Such a precedent would be growth-inducing and is inappropriate in light of LCP policies requiring a demonstration of adequate services prior to issuance of permits. Accordingly, this approval is conditioned for updated service commitment letter for public water and wastewater services (see Special Condition 5).

C. Precedent

The LCP requires that development not individually, or cumulatively when considered in the context of other existing and reasonably foreseeable future development, significantly adversely affect coastal resources (LUP Policy 2.1.4). Allowing the proposed project to increase its footprint and profile may lead to similar "reuse" proposals for agricultural (or other) structures currently located seaward of Highway

²⁹ See previous visual and community character findings.



One on Santa Cruz County's north coast by virtue of the perception that such development was deemed appropriate by the County and the Commission. Although this growth inducing "impact" would be very difficult to distinguish with any certainty, such a precedent would be contrary to the LCP and Coastal Act protection afforded this very special stretch of California Central Coast extending between the Cities of Santa Cruz and Half Moon Bay to the south. The north Santa Cruz coast area represents the grandeur of a bygone (in many places) agrarian wilderness California and is a critical public viewshed for which the LCP and Coastal Act dictate maximum protection.

There is no doubt that decisions on individual projects in defined geographic resource areas affect future development proposals there. In this case, however, there is little question that by maintaining the building's footprint and profile, and eliminating the formal parking lot development on the upper blufftop, the Commission has approved a project that will fit in with the character and viewshed aesthetic necessary for this seaward coastal site as required by the LCP and the Coastal Act. To the extent the Commission's approval induces future projects that will again fit into this aesthetic based upon such future projects' own unique circumstances, growth inducing and cumulative impacts do not raise an issue here.

In sum, and only as conditioned, the project will not adversely affect the special community of Davenport or the larger north coast area, individually, cumulatively, or in a growth-inducing manner as required by the LCP.

I. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

Santa Cruz County issued a Negative Declaration with 11 mitigation measures under CEQA for this project on February 24, 1998; a mitigation monitoring program was part of the County's final project approval (see Exhibit C).

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The Commission's findings above (incorporated herein by reference) have addressed all environmental issues raised by the public to date and have documented that the proposed project would lead to significant adverse effects to visual resources, community character, and public access; all of these effects could be exacerbated by their potential for cumulative impacts in the reasonably foreseeable future. In light of these significant adverse effects, many of which were not adequately identified nor mitigated by the County's CEQA document, the "no project" alternative would be the environmentally superior alternative within the meaning of CEQA. Such an alternative would avoid adverse visual, community character, and public access effects to the greatest degree feasible.



However, the “no project” alternative, does not meet project objectives of a mixed use development and does not provide adequate guidance for this critical Highway One site. As such, in this case, and only as conditioned herein, the second environmentally superior alternative within the meaning of CEQA is to allow for a reduced scale project that will: maintain the existing building’s footprint and profile, eliminate the formal parking lot development on the upper blufftop, and formally recognize public access and habitat resources on the site.

Accordingly, the project is being approved subject to conditions which implement the mitigating actions required of the Applicant by the Commission (see Special Conditions). As such, the Commission finds that only as so modified by this conditioned approval does the approved project incorporate all of feasible design alternatives and feasible mitigation measures available in this case to substantially lessen its significant adverse effects on the environment. Therefore, the project, as conditioned, is approvable under CEQA.

